



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
**COMMISSION ON WATER RESOURCE MANAGEMENT**  
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STAFF SUBMITTAL

COMMISSION ON WATER RESOURCE MANAGEMENT

April 20, 2021  
Honolulu, O'ahu

Status of Request for Surface Water Reservation of 2.00 Million Gallons per Day  
For the Department of Hawaiian Home Lands and  
Draft Interim Instream Flow Standards for Honokōhau and Kaluanui Streams  
in the Surface Water Hydrologic Unit of Honokōhau (6014) and  
Honolua Stream in the Surface Water Hydrologic Unit of Honolua (6013), West Maui

SUMMARY OF REQUEST

No action; for information only.

Presentation to Commission on Water Resource Management (Commission):

1. Request for a surface water reservation of 2.00 million gallons per day (mgd) for the Department of Hawaiian Home Lands (DHHL) to meet their foreseeable future non-potable water needs in Honokōwai serviced by the Honokōhau Ditch from the Honokōhau Stream; and
2. Recommendations to establish interim instream flow standards (interim IFS) for two streams in the Honokōhau surface water hydrologic unit and one stream in the Honolua surface water hydrologic unit, in West Maui:

HONOKŌHAU HYDROLOGIC UNIT (6014): Honokōhau Stream  
HONOKŌHAU HYDROLOGIC UNIT (6014): Kaluanui Stream  
HONOLUA HYDROLOGIC UNIT (6013): Honolua Stream

LOCATION MAP    See Figure 1

## LEGAL AUTHORITY

The State Water Code provides for reservations of water in both designated and non-designated water management areas. In designated areas, water reservations may be made pursuant to §174C-49(d), Hawaii Revised Statutes (HRS), which states:

*The commission, by rule, may reserve water in such locations and quantities and for such seasons of the year as in its judgment may be necessary. Such reservations shall be subject to periodic review and revision in the light of changed conditions; provided that all presently existing legal uses of water shall be protected.*

Hawaii Administrative Rules (HAR) Subchapter 6 (Reservation of Water) includes §13-171-60 (Reservations of water) that provides further guidance for water reservations in water management areas:

*(a) As provided in HRS §174C-49(d), the commission, by rule, may reserve water in such locations and quantities and for such seasons of the year as in its judgment may be necessary.*

*(b) The commission shall adopt within this subchapter specific reservations of water in water management areas in such quantities as are deemed necessary for purposes which are consistent with the public interest, including the provision of water for current and foreseeable development and use of Hawaiian home lands pursuant to section 221 of the Hawaiian Homes Commission Act and HRS §174C-101(a).*

*(c) Proceedings for the establishment of a reservation of water resources within a designated water management area by the commission may be initiated:*

*(1) Upon recommendation by the chairperson; or*

*(2) Upon written petition to the commission by any interested person with proper standing.*

*(d) Reserved water shall not be allocated from water management areas by the commission except upon application for a water use permit by the party, or parties, for whom the water was reserved.*

*(e) All reservations shall be subject to periodic review and revision in light of changed conditions.*

HRS §174C-101(a) also authorizes water reservations for DHHL, whether or not the area has been designated a water management area:

*Decisions of the commission on water resource management relating to the planning for, regulation, management, and conservation of water resources in the State shall, to the extent applicable and consistent with other legal requirements and authority, incorporate and protect adequate reserves of water for current and foreseeable development and use of Hawaiian home lands as set forth in section 221 of the Hawaiian Homes Commission Act.*

In non-water management areas, the reservation of surface water for DHHL should be coordinated with the establishment of interim IFS.

The Code provides that the Commission may adopt interim IFS on a stream-by-stream basis or a general IFS applicable to all streams within a specified area. In the 2000 appellate ruling on the first Waiāhole Ditch Contested Case Decision and Order (“*Waiāhole I*”), the Hawai‘i Supreme Court emphasized that “instream flow standards serve as the primary mechanism by which the Commission is to discharge its duty to protect and promote the entire range of public trust purposes dependent upon instream flows.” 94 Haw. 97, 148, 9 P.3d 409, 460. This submittal seeks to address interim IFS on three streams in West Maui.

The current interim IFS for the streams being considered were established by way of Hawai‘i Administrative Rules (HAR) §13-169-48, which, in pertinent part, reads as follows:

*Interim instream flow standard for West Maui. The Interim Instream Flow Standard for all streams on West Maui, as adopted by the Commission on Water Resource Management on October 19, 1988, shall be that amount of water flowing in each stream on the effective date of this standard, and as that flow may naturally vary throughout the year and from year to year without further amounts of water being diverted off stream through new or expanded diversions, and under the stream conditions existing on the effective date of the standard.*

The current interim IFS effective date was December 10, 1988. Thus, the status quo interim IFS, in effect, grandfathered all then-existing diversions that were registered with the Commission by May 31, 1989. Following the initial registration of stream diversion works, any new or substantially modified stream diversion works required a permit for construction as well as an amendment to the interim IFS.

The Code defines an instream flow standard as a “quantity or flow of water or depth of water which is required to be present at a specific location in a stream system at certain specified times of the year to protect fishery, wildlife, recreational, aesthetic, scenic, and other beneficial instream uses.” See HRS § 174C-3 (“Definitions”).

“Instream use” means beneficial uses of stream water for significant purposes which are located in the stream and which are achieved by leaving the water in the stream. Instream uses include, but are not limited to:

- 1) Maintenance of fish and wildlife habitats;
- 2) Outdoor recreational activities;
- 3) Maintenance of ecosystems such as estuaries, wetlands, and stream vegetation;
- 4) Aesthetic values such as waterfalls and scenic waterways;
- 5) Navigation;
- 6) Instream hydropower generation;
- 7) Maintenance of water quality;
- 8) The conveyance of irrigation and domestic water supplies to downstream points of diversion; and
- 9) The protection of traditional and customary Hawaiian rights.

In considering a petition to amend an interim instream flow standard, the Code directs the Commission to “weigh the importance of the present or potential instream values with the importance of the present or potential uses of water for noninstream purposes, including the economic impact of restricting such uses.” HRS § 174C-71(2)(D).

“Noninstream use” means the use of stream water that is diverted or removed from its stream channel and includes the use of stream water outside of the channel for domestic, agricultural, and industrial purposes.

Since the establishment of the Stream Protection and Management Branch in July 2002, the Commission has developed a framework for setting measurable instream flow standards statewide. This framework involves an assessment of natural flow conditions for the current climate period, an analysis of the instream uses protected by the State Water Code, the existing and planned uses of water, and the availability of water from multiple sources. The analysis for establishing interim IFS incorporates a balancing of the public trust uses with reasonable and beneficial uses. In the Honokōhau hydrologic unit, private individuals who engage in cultural practices, including the growing of kalo and the gathering of medicinal plants and aquatic animals, have expressed their concern regarding the diminished flow in Honokōhau Stream. Reductions in streamflow have also limited the availability of habitat for native aquatic biota. In *McBryde Sugar Co v. Robinson*, the Hawai‘i Supreme Court identified riparian rights as “the right to use water flowing without prejudicing the riparian rights of others and the right to the natural flow of the stream without substantial diminution in the shape and size given it by nature”. 54 Haw. at 198, 504 P.2d at 1344. 54 Haw. 174, 504 P.2d 1330. Further, the Hawai‘i Supreme Court affirmed the unity of the hydrological cycle such that surface and groundwater represent an integrated source of water, and “where surface and groundwater can be demonstrated to be interrelated as parts of a single system, established surface water rights may be protected against diversions that injure those rights whether the diversion is of surface water or groundwater.” *Reppun v. Board of Water Supply*, 65 Haw. at 531, 656 P.2d 57 at 79.

The public trust is a state constitutional doctrine which “continues to inform the Code’s interpretation, define its permissible ‘outer limits,’ and justify its existence...(T)he Code does not supplant the protections of the public trust doctrine.” *Waiāhole I*, 94 Hawai‘i at 133, 9 P.3d at 445. The State Supreme Court has described “the public trust relating to water resources as the authority and duty ‘to maintain the purity and flow of our waters for future generations and to assure that the waters of our land are put to reasonable and beneficial uses (*emphases in original*).” *Waiāhole I*, 94 Hawai‘i at 138, 9 P.3d at 450. “‘Reasonable-beneficial use’ means the use of water in such a quantity as is necessary for economic and efficient utilization, for a purpose, and in a manner which is both reasonable and consistent with the state and county land use plans and the public interest.” HRS § 174C-3.

The Hawai‘i Constitution requires the Commission both to protect natural resources and to promote their use and development. “The state water resources trust thus embodies a dual mandate of 1) protection and 2) maximum reasonable and beneficial use.” *Waiāhole I*, 94 Hawai‘i at 139, 9 P.3d at 451. The purposes or protected uses of the water resources trust are: 1) maintenance of waters in their natural state, 2) domestic water use of the general public, in particular, protecting an adequate supply of drinking water, 3) the use of water in the exercise of Native Hawaiian traditional and customary rights, and 4) the reservation of water enumerated by

the State Water Code. *Waiāhole I*, 94 Hawai‘i at 136-37, 9 P.3d at 448-58; *In re Wai‘ola o Moloka‘i, Inc.* (“*Wai‘ola*”), 103 Hawai‘i 401, 431, 83 P.3d 664, 694 (2004).

“In this jurisdiction, the water resources trust also encompasses a duty to promote the reasonable and beneficial use of water resources in order to maximize their social and economic benefits to the people of the state...(We) have indicated a preference for accommodating both instream and offstream uses where feasible...(and) reason and necessity dictate that the public trust may have to accommodate offstream diversions inconsistent with the mandate of protection, to the unavoidable impairment of public instream uses and values.” *Waiāhole I*, 94 Hawai‘i at 139, 141-42, 9 P.3d at 451, 453-54.

There are no absolute priorities under the Public Trust Doctrine. “Given the diverse and not necessarily complementary range of water uses, even among public trust uses alone, (the Court) consider(s) it neither feasible nor prudent to designate absolute priorities between broad categories of uses under the water resources trust. There are no absolute priorities between uses under the water resources trust...(and) the Commission inevitably must weigh competing public and private water uses on a case-by-case basis, according to any appropriate standards provided by law (emphasis added).” *Waiāhole I*, 94 Hawai‘i at 142, 9 P.3d at 454. The public trust creates an affirmative duty of the Commission “to take the public trust into account in the planning and allocation of water resources, and to protect public trust uses whenever feasible<sup>1</sup> (emphasis added).” *Waiāhole I*, 94 Hawai‘i at 141, 9 P.3d at 453.

The water code does not place a burden of proof on any particular party; instead, the water code and case law interpreting the code have affirmed the Commission's duty to establish interim IFS that 'protect instream values to the extent practicable' and 'protect the public interest.'" *In re 'Īao Ground Water Management Area High-Level Surface Water Use Permit Applications and Petition to Amend Interim Instream Flow Standards of Waihe'e River and Waiehu, 'Īao, and Waikapu Streams Contested Case Hearing* ("Nā Wai 'Ehā"), 128 Hawai‘i 228, 258, 287 P.3d 129, 159 (2012)), citing *In re Water Use Permit Applications* ("Waiāhole II"), 105 Hawai‘i 1, 11, 93 P.3d 643, 653 ((2004)); and HRS §174C-71((2))(A)). In setting an interim IFS, the Commission "need only reasonably estimate instream and offstream demands." *Nā Wai 'Ehā*, 128 Hawai‘i at 258, 287 P.3d at 159 (2012)); "*Waiāhole I*", 94 Hawai‘i at 155 n. 60, 9 P.3d at 467 n. 60. "In requiring the Commission to establish instream flow standards at an early planning stage, the Code contemplates the designation of the standards based not only on scientifically proven facts, but also on future predictions, generalized assumptions, and policy judgments." *Waiāhole I*, 94 Hawai‘i at 155, 9 P.3d at 467.

Further, Article 12, §7 of the Hawai‘i Constitution states that: “The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua‘a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.”

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<sup>1</sup> The Court refers to the term “feasible” as a balancing of benefits and costs and not to mean “capable of achievement.” (*Waiāhole I*, 94 Hawai‘i, at 141 n. 39; 9 P.3d, at 453 n. 39.)

Where scientific evidence is preliminary and not yet conclusive regarding the management of fresh water resources, it is prudent to adopt the "precautionary principles" in protecting the resource<sup>2</sup>. That is, where there are present or potential threats of serious damage, lack of full scientific certainty should not be a basis for postponing effective measures to prevent environmental degradation...In addition, where uncertainty exists, a trustee's duty to protect the resource mitigates in favor of choosing presumptions that also protect the resource.<sup>3</sup> The "precautionary principle" appears in diverse forms throughout the field of environmental law... The Hawai'i Supreme Court confirmed that the principle, in its quintessential form, states: at minimum, the absence of firm scientific proof should not tie the Commission's hands in adopting reasonable measures designed to further the public interest. "*Waiāhole I*", 94 Hawai'i at 155 n. 60 p.13.

In developing the interim IFS recommendations, staff has attempted to remain consistent in weighing all the instream and noninstream uses of each stream based upon the best available information presented in the Instream Flow Stream Assessment Report (IFSAR), along with the oral and written comments received through the public review process. This process is challenging due to the unique nature of each stream, the various instream and noninstream uses of water, and the logistical challenges of instituting an interim IFS. Whether attempting to compare stream characteristics across multiple hydrologic units or within one unit, no single principal or equation determines the rate of flow restoration. However, the principals established by the State Constitution, the laws dictating the Hawai'i State Water Code (HRS chapter 174C), and the statutes which are used to implement these laws (HRS) are applied equally.

The State Water Code (Code), Chapter 174C, Hawaii Revised Statutes (HRS), provides that the Commission shall have jurisdiction statewide to hear any dispute regarding water resource protection, water permits, or constitutionally or otherwise legally protected water interests. HRS §13-167-23. If any person files a complaint with the Commission that any other person is wasting or polluting water, or is making a diversion, withdrawal, impoundment, consumptive use of waters or any other activity occurring without a permit where one is required, the Commission shall cause an investigation to be made, take appropriate action, and notify the complainant thereof. HRS §13-167-82. Further, the Commission may take jurisdiction of and resolve any disputes regarding water resource protection, water permits, or constitutionally protected water interests. HRS §13-167-3(4).

The assessment of instream uses for West Maui has been separated into multiple phases, the first of which addressed the interim IFS for the Ukumehame (6004), Olowalu (6005), Launiupoko (6006) and Kaua'ula (6007) hydrologic units in March 2018. The second phase addressed interim IFS for Kahoma and Kanahā streams in the Kahoma (6008) hydrologic unit in November 2018. This submittal will address the non-potable water reservation of the DHHL from Honokōhau Stream and interim IFS values for the Honolua (6013) and Honokōhau (6014) hydrologic units.

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<sup>2</sup> Commission on Water Resource Management. 1997. In the Matter of Water Use Permit Applications, Petitions for Interim Instream Flow Standard Amendments, and Petitions for Water Reservations for the Waiāhole Ditch Combined Contested Case Hearing. Final Decision & Order. CCH-OA-95-01.

<sup>3</sup> Ibid.

EXISTING DHHL WATER RESERVATIONS

Thus far, the Commission has established a total of 28 potable and non-potable water reservations, all for DHHL, in both water management areas and non-designated water management areas.

Table 1 shows the previous water reservations made by administrative rule in water management areas, pursuant to HRS §174C-49(d) or by Commission action prior to the publication of the State Water Projects Plan 2017 Update.

**Table 1.** DHHL Water Reservations prior to the State Water Projects Plan 2017 Update.

[WMA = Water Management Area]

Approval Process	Island	Location	Effective Date	Reservation (mgd)
§13-171-61	O‘ahu	Waipahu-Waiawa WMA	02/18/1994	1.724
§13-171-62	O‘ahu	Waimānalo WMA	02/18/1994	0.124
§13-171-63	Moloka‘i	Kualapu‘u WMA	06/10/1995	2.905*
CWRM Action	Hawai‘i	Keauhou Aquifer	08/17/2015	3.398

\* Per HAR §13-171-63, this amount shall be in excess of the existing uses of water on Hawaiian home lands as of the effective date of this rule (Eff. June 10, 1995)

STATE WATER PROJECTS PLAN 2017 UPDATE

More recently, reservation actions were supported by preliminary findings in the most recent update of the State Water Projects Plan, which was formally adopted by the Commission on May 16, 2017. The State Water Projects Plan is the component of the Hawai‘i Water Plan that documents the water needs of all State agencies over a 20-year planning horizon. The Engineering Division of the Department of Land and Natural Resources is responsible for the development and update of the State Water Projects Plan. In addition to inventorying the existing and future water needs for State projects, through the State Water Projects Plan, Engineering Division also promotes partnerships and cost sharing to coordinate water development projects and water infrastructure improvements of potentially competing State agencies. Based on the State Water Projects Plan, Engineering Division pursues legislative funding to support new source development through Capital Improvement Project requests and administers a water credit allocation program for State agencies. Implementation of the State Water Projects Plan in close coordination with the County Water Use and Development Plan is needed to ensure orderly authorization and development of new State sources and water system infrastructure.

Initially adopted in 1990 and revised in 2003, a third update of the State Water Projects Plan was completed and adopted in 2017<sup>4</sup>. Due to funding constraints, the Engineering Division focused this most recent State Water Projects Plan update exclusively on DHHL. DHHL was selected

<sup>4</sup> Engineering Division also received separate funding to update the State Water Projects Plan for the North Kona region on the island of Hawai‘i, as well as for a comprehensive statewide update. The statewide update will incorporate the 2017 update (which documents DHHL water needs) as well as the regional update for North Kona in order to develop comprehensive and coordinated water development strategies that consider and coordinate the needs and plans of all State agencies.

because: 1) they are the largest landowner amongst State agencies and thus could have the most significant impact on water resource development and use, and 2) DHHL water needs are an identified public trust purpose under the State Constitution and Water Code.

The Engineering Division and its consultant worked extensively with DHHL staff to identify priority tracts and proposed phasing over the 20-year planning horizon and to determine the breakdown of each tract in terms of residential units and agricultural acreages. The 20-year timeframe is established under HAR §13-170-42(c), which requires the State Water Projects Plan to consider a 20-year projection period for analysis purposes.

Potable water requirements were calculated by correlating DHHL's land use designations to an equivalent zoning designation in the County Water System Standards (or other applicable standards when necessary) and applying the respective unit rate (Exhibit 1). All demands from the domestic component of homesteading (Residential, Subsistence Agriculture, Pastoral) and municipal (Community Use, Commercial, Industrial) land use designations were considered to be potable.

Non-potable requirements were considered to be irrigation demands for agricultural land use designations (Subsistence, Supplemental, and General Agriculture) and stock water (sustenance water for livestock) for the Pastoral land use designation. Agricultural non-potable demands were calculated using a unit rate of 3,400 gallons per acre per day, as recommended by the Department of Agriculture's Agricultural Water Use and Development Plan. Based on published studies, a livestock watering unit rate of 20 gallons per head per day was used for Pastoral land use designations. The unit rate non-potable requirements are shown in Exhibit 2.

A range of forecasts - high, medium, and low – were developed for both potable and non-potable end use water demands. Variability was achieved by adjusting project development data while keeping water demand unit rates fixed. Examples of adjustments included varying unit buildout rates, utilizing different unit density rates, and using different percentages of utilization of the total area for development. However, while the range of water demands for the various end uses were assessed, only the medium demand projections by water source (e.g., aquifer system areas to be developed) were provided.

The 2017 update of the State Water Projects Plan provides a sound basis and rationale for water reservations statewide for DHHL for both potable needs (groundwater) and non-potable needs (surface water) by hydrologic unit. After discussions with DHHL staff, it was decided that the establishment of additional water reservations begin with potable groundwater needs in non-designated areas on the islands of Kaua'i, Maui, Lana'i, and Hawai'i for the following reasons:

- DHHL's needs within designated ground water management areas on the island of O'ahu are most likely to be met through the Honolulu Board of Water Supply's (HBWS) integrated municipal water system. As shown in Table 1, DHHL has existing reservations from the Waipahu-Waiawa and Waimanalo Aquifer System Areas on O'ahu. As DHHL tracts are developed, these reservations are to be converted to water use permits and transferred to the HBWS for water service. DHHL has no current plans to pursue new source development and does not plan to operate new water systems on O'ahu. According to DHHL, DHHL is already in discussions with HBWS to service



## DHHL Reservation and Interim IFS for Honokōhau and Honolua Hydrologic Units

DHHL tracts on O‘ahu and has received verbal commitment from HBWS. HBWS is in the process of updating its Water Use and Development Plan, and the regional watershed management plans for the Primary Urban Center, ‘Ewa District, and Central O‘ahu are currently underway and should incorporate DHHL needs and strategies based on the 2017 State Water Projects Plan.

- DHHL’s needs within non-designated aquifer system areas on the island of O‘ahu (Wai‘anae Sector Area) will also be met through the Honolulu Board of Water Supply’s (HBWS) integrated municipal water system. DHHL will rely on HBWS for new source development in the Wai‘anae Sector Area. DHHL is already in discussions with HBWS to service DHHL tracts on O‘ahu and has received verbal commitment from HBWS.
- Besides O‘ahu, the only other areas that are currently designated as a groundwater management area is the island of Moloka‘i, and the ‘Īao Aquifer System on Maui. As shown in Table 1, there is an existing water reservation for DHHL for the Kualapu‘u Ground Water Management Area for 2.905 mgd in addition to existing uses; however, the 2017 State Water Projects Plan shows a projected need for only 0.840 mgd until 2031.
- Staff’s preliminary review of non-potable surface water needs in the 2017 State Water Projects Plan indicate that in some cases, where there are available streamflow records, proposed future needs exceed the available flow in the stream. In most cases, however, there is no available streamflow data to compare with the proposed water needs.
- Additionally, current information on other existing off-stream uses is lacking. Therefore, reservations for surface waters should be done in concert with staff’s establishment of instream flow standards, which will involve the collection of the data and information necessary to vet the amounts to be reserved.

On June 20, 2017, the Commission approved a reservation of 6.903 mgd of non-potable water from the Waimea Surface Water Hydrologic Unit, on the island of Kaua‘i, for DHHL’s 15,061 acres of land mauka of the mana plain, which were historically fed by the Kōke‘e Ditch with water diverted from Kōke‘e, Kauaikinānā, Kawaikōi, and Waiakoali streams during the operation of the Kekaha Sugar Company. This reservation was filed on April 25, 2017 following the April 18, 2017 Commission-approved Waimea Watershed Agreement Mediated Settlement. This reservation supersedes DHHL’s previous petition for 33.145 mgd filed with the Commission on November 17, 2015.

On October 16, 2018, the Commission approved a reservation of 0.513 mgd of non-potable water from the Wailua Surface Water Hydrologic Unit, on the island of Kaua‘i, for non-potable water needs of DHHL’s lands East of Kālepa Ridge.

On March 27, 2020, the Commission approved a reservation of 1.600 mgd non-potable water from four tributaries of the Wailuku River (i.e., ‘Āwehi, Aale, Laualu, Kapehu) and established interim IFS of natural flow (‘Āwehi Stream), 2.1 mgd (Aale Stream), 2.2 mgd (Laualu Stream), and 6.0 mgd (Kapehu Stream) immediately below the Forest Reserve Boundary.

Table 2 shows all water reservations established via Commission action in non-designated water management areas, pursuant to HRS §174C-101(a).

**Table 2.** DHHL Water Reservations in Non-Designated Water Management Areas

Island	Hydrologic Unit	type	Action Date	Initial Reservation (mgd)	Current Reservation (mgd)
Kauaʻi	Waimea*	non-potable	06/20/2017	6.903	6.903
	Wailua	potable	09/18/2018	0.708	0.708
	Wailua*	non-potable	10/16/2018	0.513	0.513
	Anahola	potable	09/18/2018	1.470	1.470
	Kekaha	potable	09/18/2018	0.336	0.336
	Makaweli	potable	09/18/2018	0.405	0.405
Lanaʻi	Leeward	potable	09/18/2018	0.067	0.067
Maui	Honokōwai	potable	09/18/2018	0.770	0.770
	Kamaʻole	potable	09/18/2018	2.547	2.547
	Keʻanae	potable	09/18/2018	0.003	0.003
	Kawaipapa	potable	09/18/2018	0.118	0.118
	Lualaʻiula	potable	09/18/2018	0.063	0.063
Hawaiʻi	Wailuku*	non-potable	03/17/2020	1.600	1.600
	Keauhou	potable	08/17/2015	3.398	3.398
	Hawi	potable	09/18/2018	0.148	0.148
	Māhukona	potable	09/18/2018	3.014	3.014
	Honokaʻa	potable	09/18/2018	0.396	0.396
	Hakalau	potable	09/18/2018	0.083	0.083
	Onomea	potable	09/18/2018	0.250	0.250
	Hilo	potable	09/18/2018	0.492	0.492
	Keaʻau	potable	09/18/2018	1.336	1.336
	ʻŌlaʻa	potable	09/18/2018	0.025	0.025
	Nāʻālehu	potable	09/18/2018	0.185	0.185
	Pāhoa	potable	09/18/2018	0.660	0.660

\* Surface Water Hydrologic Unit

In 2019, staff from DHHL and CWRM started discussing the non-potable water reservation for DHHL for future DHHL land uses in Honokōwai. In 2020, DHHL staff indicated that they were updating their West Maui Regional Plan following the development of the Villages of Leialiʻi, in consultation with their beneficiaries, and that revised non-potable water demand estimates were forthcoming. The revised acreage, use, and water duties are provided in Table 3. Following this consultation, DHHL determined their non-potable reservation to be 2.00 mgd. The breakdown for this reservation is provided in Table 3.

### CONSISTENCY WITH THE HAWAII WATER PLAN

The Hawaiʻi Water Plan is the State’s long-range water plan, and staff believes it is important that water reservations be consistent with, and have basis in, the Hawaiʻi Water Plan (HWP). Under the current planning framework, the State Water Projects Plan outlines the water needs for

State projects (in this case for DHHL), identifies potential supply options, and feeds into the County Water Use and Development Plans. This enables State water needs to be integrated with the needs of all other use sectors (i.e., military, municipal, private, and agriculture) within each county into a comprehensive resource development strategy and implementation plan. However, county updates to their Water Use and Development Plan are often not as frequent, comprehensive, or timely to provide for such reservations as needed. As previously described, the 2017 Update to the State Water Projects Plan identifies the non-potable water needs of DHHL.

A draft of the Maui County Water Use and Development Plan was developed in 2017, but has not yet been approved by the Maui County Council. Due to the high priority rights of DHHL under the State Constitution, State Water Code, and Hawaiian Homes Commission Act, staff does not believe it is prudent nor necessary to wait for the county plans to incorporate the needs of DHHL, especially when county priorities are inconsistent with those of DHHL. Should water reservations be approved, staff will inform the counties so that the reservations will be incorporated into the County Water Use and Development Plans as required by law. Reserving water for DHHL promotes the Commission's approach to managing the resource and protecting the public trust through the collaboration and consistency framework provided by the HWP.

**Table 3.** Acreage, water demand rate (gallons per acre per day, gpad) and total water demand (gallons per day) by land use for the DHHL water reservation.

Land Use	Type	Area (acre)	Rate (gpad)	Water Demand (gpd)
Subsistence Agriculture	Private Homestead	347	4849	1,682,602
Supplemental Agriculture	Private Homestead	14	4849	67,886
Communal Agriculture	Community Use	17	4849	82,433
Parks	Community Use	30	4849	145,470
			Total =	1,978,392

## HISTORIC CONTEXT

The ahupua'a of Honokōhau, in the moku of Ka'anapali, supported one of the largest concentrations of Hawaiian agriculture in the Kingdom, with over 1000 surveyed lo'i in excess of 50 acres. While terracing in the ahupua'a of Honolua also suggests lo'i kalo was cultivated in the valley, archeological evidence and local knowledge points to Honolua being a focal region of religion and not agriculture.

Honolua Ranch began in 1853 with 2,675 acres of land awarded through a royal grant to Dwight Baldwin. By 1902, the ranch grew to 24,500 acres. In 1912, the first 20 acres of pineapple were planted and in 1914 incorporated Baldwin Packers. The company produced pineapple grown on 5,000 acres as well as other diversified agriculture grown on Kapalua Farms. Maui Pineapple Company (MPC) formed in 1932. In 1962, MPC merged with Baldwin Packers to form Maui Land and Pineapple (MLP), eventually becoming the largest private producer of pineapple and pineapple juice in the nation. In 1975, MLP incorporated Kapalua Land Company (KLC) as a subsidiary dedicated to resort development with MPC dedicated to agricultural operations. Since that time, approximately 3,000 acres of land in Kapalua have been developed into golf courses, luxury homes, condos, and resorts.

In 1904, Pioneer Mill partnered with Honolua Ranch to construct the Honokōhau Ditch (known as the Honolua Ditch up to Māhinahina), taking advantage of West Maui's largest water source, Honokōhau Stream. Due to problems with the ditch (mainly landslides), the intake was moved from an elevation of 700 feet to its present location at 825 feet in 1913, with a new ditch running parallel to the older ditch, but mainly in tunnel.

In 2005, the real estate division of KLC began to expand its luxury resort development and sold its two existing golf courses.

At the end of 2009, MLP ceased pineapple operations, leaving a real estate division for land planning, development and sales, a leasing division for residential, resort, agricultural, commercial and industrial land and property leases, a resort amenities division for Kapalua Club members, and a utilities division, which operates the Kapalua Water Company (KWC) and Kapalua Waste Treatment Company.

In early 2010, Kapalua Farms organic pineapple operation was taken over by Ulupono Sustainable Agriculture Development. KWC continues to operate potable and non-potable water distribution systems, with potable water originating from three wells and non-potable water originating in Honokōhau Stream via Honokohau Ditch. The 8,304-acre Pu'u Kukui Nature Preserve is also owned and operated by MLP, one of the largest private nature preserves in the State of Hawai'i.

In 2021, MLP sold the water utilities division to Hawaii Water Service.

Today, there are 5.15 acres identified as kuleana lands, and lo'i kalo is currently grown on less than 3.5 acres. However, mirroring larger trends across Hawai'i, the Honokōhau community is experiencing a resurgence in food independence and Hawaiian cultural practices in which lo'i kalo cultivation is expanding.

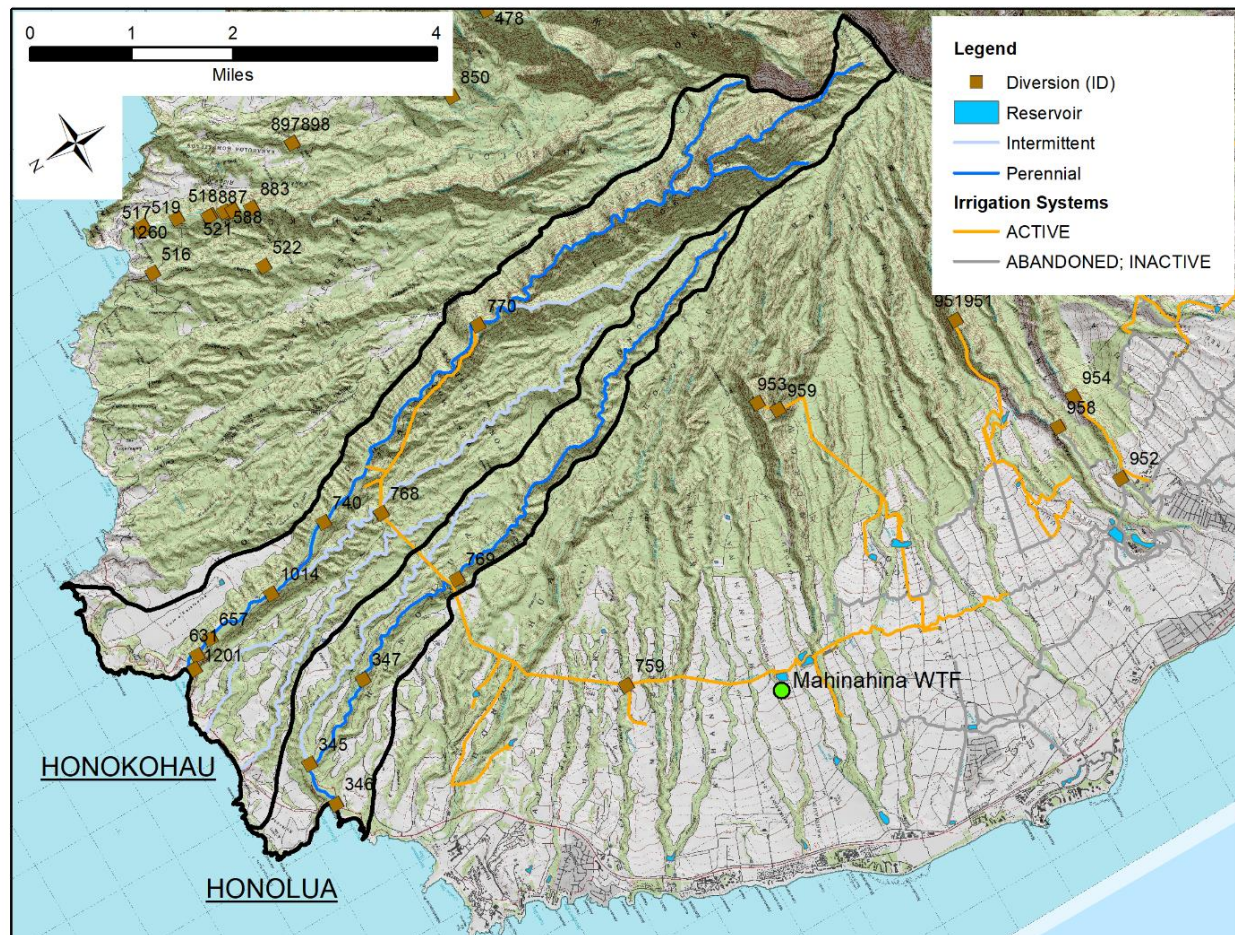
## TIMELINE

In 1987, with the passage of the State Water Code (HRS 174C), all wells and stream diversions had to be registered with the Commission by May 31, 1989. Registered diversions accepted by the Commission in the hydrologic units considered here are listed in Table 4. The primary diversions on Honokōhau and Honolua streams were registered by MLP and maintained by MPC (File Reference: MAUI PINE). Following the cessation of pineapple cultivation in Kapalua, the operation and maintenance of the intake and ditch system were contracted out to a private company for MLP.

In 2003, the U.S. Geological Survey (USGS), in cooperation with the Office of Hawaiian Affairs, produced a Scientific Investigations Report (SIR 03-4060) which provided flow-duration estimates and detailed characterization of the distribution and availability of base flows in lower Honokōhau Stream. The analysis also showed groundwater gains between the USGS long-term continuous gaging station 1662000 at the 870 foot elevation time and Diversion 770 at the 825 foot elevation, as well as gains and losses of surface water downstream to the ocean.

## DHHL Reservation and Interim IFS for Honokōhau and Honolua Hydrologic Units

**Figure 1.** The Honolua and Honokōhau hydrologic units, perennial and intermittent streams, registered diversions and irrigation systems, and water treatment facilities (WTF), West Maui.



In 2006, MLP filed separate petitions to amend the instream flow standard (PAIFS) for the Honolua and Honokōhau streams. These PAIFS followed biological assessments by SWCA Environmental Consultants, Inc.

In 2012, John Carty filed a PAIFS in order to pump water from the Honolua stream to a small reservoir to meet the agricultural irrigation needs of kalo, banana, sweet potato and other diversified crops on kuleana land.

In 2014, the USGS, in a Joint Funding Agreement with the Commission, published a Scientific Investigations Report (2014-5087), which characterized streamflow availability under natural low-flow conditions for streams in the Lahaina district, including Honolua Stream.

Following the publication of USGS SIR 2014-5087, Commission staff began analyzing historic and current data in support of the production of the Instream Flow Assessment Report (IFSAR) for each hydrologic unit in West Maui.

## DHHL Reservation and Interim IFS for Honokōhau and Honolua Hydrologic Units

**Table 4.** Registration ID, diversion ID, diversion name, stream name, and additional information for diversions in the Honolua and Honokōhau hydrologic units, Maui.

Hydrologic Unit	Registrant	Diversion ID	Diversion name	Stream name	Additional information
Honokōhau	MAUI LAND & PINE	770	Aotaki Weir	Honokōhau	Intake #1 on Honokōhau Ditch at 825 ft
Honokōhau	MCDONALD J	740	McDonald's Dam	Honokōhau	Not active
Honokōhau	SHIM M	1014		Honokōhau	Not active
Honokōhau	LAHAINA PLTSCP	657		Honokōhau	Pump from stream
Honokōhau	KIM JW	631		Honokōhau	Pump from stream
Honokōhau	WATANABE WT	1201		Honokōhau	Pump from stream
<del>Honokōhau</del>	<del>MAUI LAND &amp; PINE</del>	<del>768</del>	<del>Kaluanui Intake</del>	<del>Kaluanui</del>	<del>Intake #2 on Honokōhau Ditch</del> Formally abandoned 9/15/2020 by SDWP 5358.6
<del>Honolua</del>	<del>MAUI LAND &amp; PINE</del>	<del>769</del>	<del>Honolua Intake</del>	<del>Honolua</del>	<del>Intake #3 on Honokōhau Ditch</del> Formally abandoned 9/15/2020 by SDWP 5359.6
Honolua	EZZO JSJR	347	n/a	Honolua	Diversion on TMK 241001002 of 100,000 gallons for 0.75 acres of taro, livestock, aquaculture, domestic
Honolua	EZZO JSJR	346	n/a	Honolua	Diversion on TMK 241001008 of 100,000 gallons for 2.0 acres of taro
Honolua	EZZO JSJR	345	n/a	Honolua	Diversion on TMK 241001002 of 100,000 gallons for 0.75 acres of taro, livestock, aquaculture, domestic

In September 2019, Commission staff held a public fact-gathering meeting in Lahaina where 54 people attended. Oral testimony was submitted by about 25 people and written testimony was received from 6 other people. Overall, there was much support for the Commission's process for developing interim IFS and the need to protect the stream, traditional and customary practices, and domestic uses of stream water. Some comments were concerned about issues related to compliance, enforcement, and monitoring. Recommendations in this submittal seek to address these issues.

At a regularly scheduled Commission meeting on November 2019, the Commission addressed some issues identified by the complainant, requiring MLP to repair diversion 770, monitor how much water is diverted, and monitor the outflow to the Village and Plantation reservoirs.

From 1995 to present day, Commission staff has received numerous requests in the form of a complaint or petition to protect stream resources in the subject area. Formal complaints and petitions are compiled in Table 5. Numerous informal requests in the form of phone calls, letters, and email have also been received by Commission staff. The primary concern is lack of streamflow and its effect on traditional and customary gathering practices, the cultivation of lo'i



## DHHL Reservation and Interim IFS for Honokōhau and Honolua Hydrologic Units

kalo, and recreational uses of the stream. Without reliable municipal water supply, many households in the valley rely on the stream for domestic uses as well.

At a regularly scheduled Commission meeting on November 19, 2019, Commission requested that MLP formally apply for the abandonment of diversion 768 on Kaluanui Stream and diversion 769 on Honolua Stream. The Commission also directed MLP to upgrade diversion 770 infrastructure and monitoring such that it can be remotely operated to only divert the amount of water required to meet non-instream uses. On September 15, 2020, the Commission approved the Stream Diversion Works Permits for the abandonment and removal to the extent practicable these stream diversions.

In the course of these research efforts, staff identified several existing, historic, or unregistered diversions within the Honokōhau hydrologic unit. Unregistered diversions are listed in Table 6. While permits are needed for stream diversion works, traditional and customary practices, including the growing of lo‘i kalo do not require an amendment to the interim IFS, as these uses are considered instream uses.

**Table 5.** Summary of complaints associated with the Honolua, or Honokōhau hydrologic units to Commission staff. [MLP = Maui Land & Pineapple Co.; DHHL = Department of Hawaiian Home Lands]

Date	Description of Complaint
<b>Honokōhau</b>	
August 1995	Lack of flow in stream
August 2004	Illegal grading of stream; rocks removed from stream to build an embankment to prevent erosion
August 2006	Petition to Amend the Interim IFS by MLP (PAIFS.1792.6)
August 2012	Lack of flow in stream
September 2014	Neighbor moved rocks in stream; unpermitted stream channel alteration
September 2018	Maui Co’s pipeline catwalk broke across stream; lack of vegetation management affecting the stream
April 2019	Waste complaint: MLP failure to operate it’s intake and water wasted at Wahikuli Flume
<b>Honolua</b>	
August 2006	Petition to Amend the Interim IFS by MLP (PAIFS.1792.6)
June 2012	Petition to Amend the Interim IFS by John Carty (PAIFS.3603.6)

**Table 6.** Existing, historic, or unregistered diversions in the Honokōhau hydrologic unit.

elevation (ft)	associated lo‘i (count)	TMK	Description	notes
320	15	410040090000	Auwai on left bank	currently active
220	12	410030260000	Auwai on right bank	
110	22	410030140000	Auwai on left bank (Lindsey)	currently active; natural poowai in side channel
95	3	410020680000	Auwai on right bank	
90	90	410020680000	Auwai on right bank	some dryland kalo active
80	10	410020680000	Auwai on right bank	
70	0	410020510000	Auwai on left bank (McAulton)	concrete in channel
60	60	410020430000	Chun’s Dam	currently active; concrete needs in channel repair

## DHHL Reservation and Interim IFS for Honokōhau and Honolua Hydrologic Units

Table 7 summarizes staff research efforts towards production of the IFSAR for each hydrologic unit. Research included site visits and interviews with irrigation managers, community groups, landowners, and stakeholders as well as additional monitoring of stream and ditch flows, and surveying of instream resources. Information gathered contributed to a more complete understanding of the current water management and instream uses.

**Table 7.** Summary of field investigations, by hydrologic unit and date, of Commission staff in support of developing interim instream flow standards for West Maui. [DDHL = Department of Hawaiian Home Lands; MDWS = Maui Department of Water Supply; MLP = Maui Land & Pineapple]

Date	Description
<b>Honokōhau</b>	
December 2014	CWRM site visit with Honokōhau Valley community members to investigate complaint at Chun's Dam
July 2017	CWRM and MLP site visit to diversion
December 2017	CWRM site visit with Honokōhau Valley community members to document existing lo'i complexes
October 2017	CWRM installation of staff plate at Honoapi'ilani Highway (6-157)
November 2017	CWRM flow measurements at gage 6-157
December 2017	CWRM flow measurements at gage 6-157
January 2018	CWRM flow measurements at gage 6-157
May 2018	CWRM site visit with Honokōhau Valley community members to discuss lo'i restoration following flood
October 2018	CWRM site visit with Honokōhau Valley community members to document flood damage
October 2018	CWRM and MLP site visit to diversion
November 2018	CWRM fieldwork at McDonald's Dam (6-149)
December 2018	CWRM site visit at McDonald's Dam (6-149)
January 2019	CWRM at McDonald's Dam (6-149)
February 2019	CWRM at McDonald's Dam (6-149)
May 2019	CWRM site visit to Honokōhau Ditch at Wahikuli
June 2019	CWRM/DAR biota survey with MLP; flow measurement at gage 6-149
July 2019	CWRM site visit to Honokōhau ditch
November 2019	CWRM installation of gage at Adit 6 (6-201)
March 2020	CWRM site visit at McDonald's Dam (6-149)
June 2020	CWRM site visit at McDonald's Dam (6-149)
October 2020	CWRM site visit at McDonald's Dam (6-149)
February 2021	CWRM site visit at McDonald's Dam (6-149)
<b>Honolua</b>	
May 2012	CWRM and USGS conduct initial flow measurements
April 2017	CWRM and MLP site visit to diversion
September 2017	CWRM installation of gage at highway (6-158); flow measurement; initial USACOE survey
November 2017	CWRM flow measurement at highway
December 2017	CWRM flow measurement at gage 6-158
January 2018	CWRM flow measurement at gage 6-158
April 2018	CWRM flow measurement at gage 6-158
December 2018	CWRM flow measurement at gage 6-158
March 2019	CWRM flow measurement at gage 6-158
June 2019	CWRM/DAR biota survey with MLP
August 2019	CWRM site visit to gage 6-158
March 2020	CWRM site visit to gage 6-158
June 2020	CWRM site visit to gage 6-158
October 2020	CWRM site visit to gage 6-158



Date	Description
February 2021	CWRM site visit to gage 6-158
March 2021	CWRM site visit to gage 6-158
April 2021	CWRM site visit to gage 6-158

### FORMAL WASTE COMPLAINT

On April 23, 2019, Ka Malu o Kahalawai and West Maui Preservation Association filed a formal Complaint / Dispute Resolution regarding water diverted from Honokōhau Stream and wasted in areas extending south to the Wahikuli hydrologic unit. In the complaint, water from Honokōhau Ditch was being released into gulches, roads, and ditches. Members of Ka Malu o Kahalawai and West Maui Preservation Association include *lo‘i kalo* farmers on lands adjacent to Honokōhau Stream and members who conduct traditional and customary practices including fishing, surfing, canoe paddling, and diving in nearshore areas of the Honokōhau hydrologic unit and other areas of West Maui.

In August and September 2018, Hurricanes Lane and Olivia hit West Maui, causing localized flooding and damage to Diversion 769 on Honolua Stream and Diversion 770 on Honokōhau Stream. The flooding resulted in an incised stream channel which lowered the elevation of the stream relative to the banks and damaged property throughout the valley.

In October 2018, Commission staff conducted a site visit with community representatives, the mayor of Maui County, and representatives from Maui Land and Pineapple (MLP) to assess the damage to the infrastructure in Honokōhau Valley. The intake structure on Diversion 769 no longer existed, while the intake structure and sluice gate on Diversion 770 were badly damaged, rendering them inoperable. The location where MLP historically released water (Taro Gate) back into Honokōhau Valley from Honokōhau Ditch was blocked by sediment and debris, preventing the return of diverted water.

In September 2018, MLP lost their ditch operator, compounding problems associated with damage to the infrastructure.

In November and December 2018, a lack of flow in Honokōhau Stream was impeding efforts to restore *lo‘i kalo* cultivation. At the same time, members of Ka Malu o Kahalawai and West Maui Preservation Association observed the release of water from Honokōhau Ditch in other locations.

Petitioners are seeking to restore flow to Honokōhau Stream. Establishing an interim IFS will protect instream uses of water, as identified by Ka Malu o Kahalawai and West Maui Preservation Association. Upgrades to the irrigation system will enable MLP to continue to meet the domestic needs of Maui DWS and the non-potable needs of DHHL while ensuring adequate water remains in the stream to meet the interim IFS.

In July 2019, CWRM staff installed a real-time continuous monitoring station on Honokohau Ditch at Māhinahina Weir to monitor the flow of water not being utilized by MLP after MDWS withdrawals water. From August 2019 to April 2020, the median mean daily flow (MDF) and

average MDF was 1.74 mgd, and 6.51 mgd, respectively. Approximately 56% of all days had flow at Māhinahina

### ISSUES/ANALYSIS

This section of the submittal begins with general considerations of issues that broadly apply to the development of an IFS. A discussion then follows of the unique hydrogeologic environment, the instream uses, and the noninstream uses of water. The general considerations are followed by an assessment summary for each stream and a simplified schematic diagram. The summary and diagram identify key points from the IFSAR while summarizing the hydrologic characteristics and is by no means intended to substitute for the information compiled in the report.

The next step to developing an interim IFS is to balance often-competing instream and noninstream uses of water, which may include public trust uses, against the amount of water available to accommodate the needs of these uses. Again, the quantity and quality of information varies from stream to stream. This step is further complicated by the tremendous variability of instream and non-instream uses across and within surface water hydrologic units. For example, one stream may support extensive *kalo* cultivation while another may primarily support domestic uses. The potential of the stream and hydrologic unit to support additional water use in the future has also been considered. The four public trust uses of water include: (1) Water in its natural state; (2) Water used for traditional and customary practices; (3) Water for domestic uses; and (4) Water reserved and used by the Department of Hawaiian Home Lands. The process is to be based upon best available information when balancing the present or potential, instream and non-instream uses.

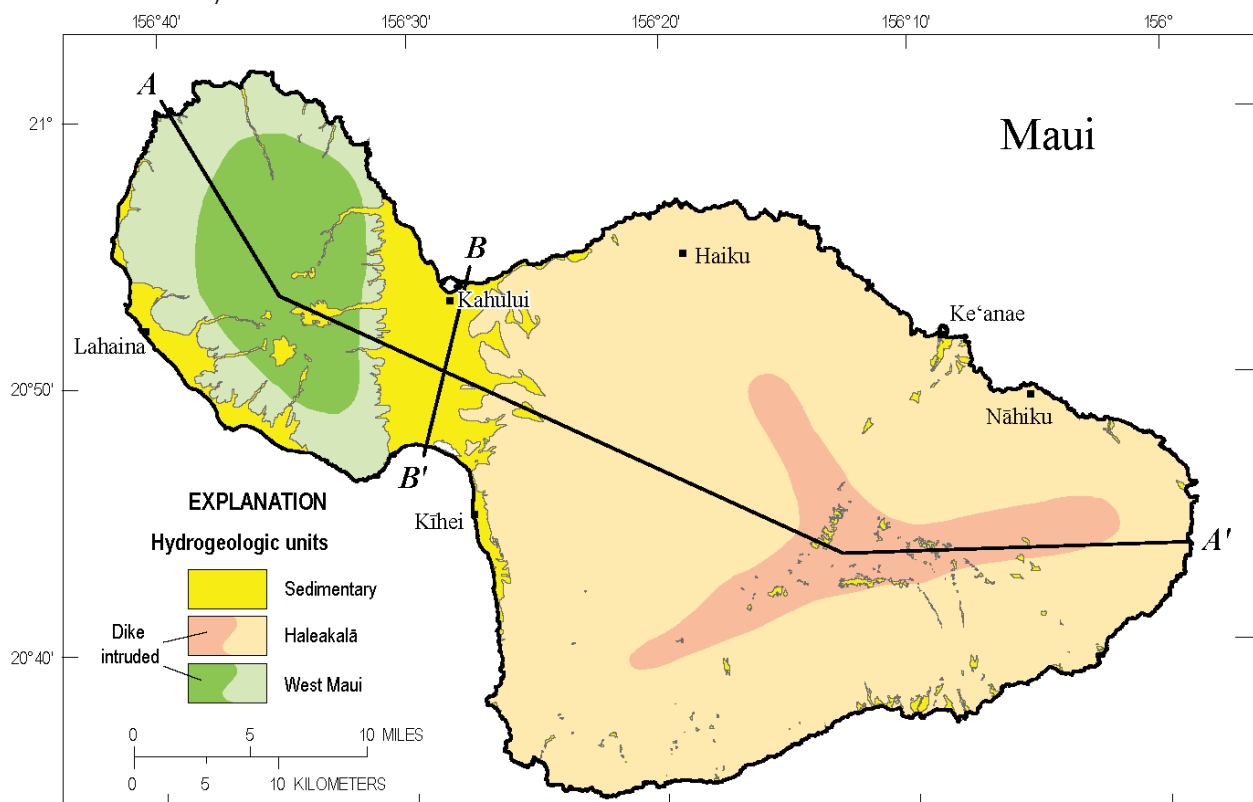
In developing the interim IFS recommendations, staff has attempted to remain consistent in balancing all of the instream and noninstream uses of each stream based upon the best available information presented in the IFSAR, along with the oral and written comments received through the public review process. This process is challenging due to the unique nature of each stream, the various instream and noninstream uses of water, and the logistical challenges of instituting an interim IFS. Whether attempting to compare stream characteristics across multiple hydrologic units or within one unit, no single principal or equation determines the rate of flow restoration. However, the principals established by the State Constitution, the Hawai‘i State Water Code (HRS 174C), administrative rules, and case law interpreting all of the above, are applied appropriately.

### **Hydrogeologic Context**

The first step in developing an interim IFS is assessing the hydrogeology of the hydrologic unit. Freshwater resources originate as precipitation, falling in the form of rain, but also through fog drip intercepted by vegetation. Some of the precipitation evaporates from the canopy or the soil, some is transpired by plants, some flows as overland flow in runoff contributing to surface flow, and some infiltrates the soil and contributes to groundwater recharge. Much groundwater is stored in the basal aquifer found in the dike-free lava flows of the shield building phase of the volcano. This basal aquifer lens sits on the brackish transition zone, which then overlies saltwater.

“High-level” groundwater occurs where water is impounded by dikes or perched on buried low-permeability horizons. Dikes form vertical barriers of low-permeability rock behind which groundwater is stored in the intervening permeable lava. Dike compartments can increase the storage of an aquifer by impounding groundwater to hundreds or thousands of feet above sea level. Although conceptualized as “compartments”, regions of high permeability are not closed on all sides and dikes are generally leaky. Inflow into dikes starts as recharge from infiltration of high-rainfall areas. Groundwater flows from higher compartments to lower compartments and eventually out of the dike-impounded groundwater area to adjacent groundwater bodies (e.g., basal lens) or in areas where the stream channel has incised into the water-bearing compartment producing spring flow. Where the stream channel has incised into dike-impounded groundwater, streams have substantial base flow (USGS SIR 2015-5164; p.100). The area of dike-impounded groundwater in West Maui was first delineated by Stearns and Macdonald (1942; USGS Hydrogeography Bulletin 7) but has since been modified by Gingerich (2008) and Gingerich and Engott (2012) as depicted in Figure 2.

**Figure 2.** The zone of high elevation dike intrusion that contributes groundwater to surface flow on Maui. (Source: USGS SIR 2015-5164)



## Hydrologic Considerations

Streams are largely characterized by different hydrologic and geologic components that affect flow regimes, particularly the groundwater-surface water interactions and rainfall-driven runoff. The amount of water flowing in a given stream is also affected by regional climate variations (e.g., rainfall, fog drip, solar radiation). The quantity and quality of data available to characterize these geologic and hydrologic components also varies considerably from stream to stream. For

streams with long-term continuous data, the process for developing an interim IFS may be greatly different from that for streams with limited hydrologic data. For example, the groundwater contributions to surface flow (i.e., base flow) can be determined using continuously recorded data and statistical analyses, while record-augmentation is used with partial-record gaging stations to estimate low-flow characteristics where no continuous data exist.

Groundwater-surface water interactions influence the extent of gaining and losing stream reaches. A gaining reach is where the streambed intersects the underlying water table and groundwater contributes to streamflow as seepage or springs. A losing reach is where the streambed is above the water table and surface water infiltrates into the streambed and recharges the aquifer, sometimes leaving the stream dry even in undiverted conditions.

A common misconception is that flow restoration from diversions is immediately followed by continuous flow downstream from the point of release all the way to the coast (analogous to turning on a faucet); however, this is not always the case. For a stream that is losing, restored flow infiltrates underground once it reaches the losing section, and flow is often absent downstream of the losing reach. In some cases, flow will become continuous only after enough water has infiltrated the streambed and raised the water table, allowing base flow to be maintained by equilibrium with sub-surface flow. In other cases, the restored stream will remain dry at low-flows where the water table drops below the elevation of the stream bed. A stream can also become dry from prolonged periods of little or no rainfall as the water table drops below the streambed. In this case, adequate rainfall is necessary to restore the interaction between surface and groundwater, and to return base flow in the stream.

Honokōhau and Honolua streams have both gaining and losing reaches below the diversions, with Honokōhau mostly gaining and Honolua mostly losing below the diversion to the ocean. The presence of high elevation dike-impounded groundwater directly influences the availability of water during low-flow conditions in Honokōhau. In Honokōhau, spring flows from high-elevation dike structures that were improved by the construction of development tunnels, which augmented surface flows such as dike structures (Figure 3). Thus, there is a disparity in surface water availability during low-flow conditions in Honokōhau, which has many dike-structures, and Honolua, which does not.

At 875 feet in elevation, a long-term (1914-present) continuous record gaging station exists on Honokōhau Stream. Median total flow (TFQ<sub>50</sub>) and low total flow (TFQ<sub>90</sub>) at this station are 15.5 mgd, and 8.4 mgd, respectively. Continuous data can be used to generate base flow duration statistics. Estimates of median base flow (BFQ<sub>50</sub>) at USGS 1662000 on Honokōhau Stream for the (1984-2013) period is 11.2 mgd. On Maui, the estimated streamflow that supports approximately 90% habitat restoration is assumed to be the 64% of median base flow (USGS SIR 2005-5213), or 7.4 mgd at USGS 1662000. Two development tunnels and one spring contribute between 2.3 mgd (Q<sub>90</sub>) and 3.4 mgd (Q<sub>50</sub>) to surface flows at Diversion 770 not measured at USGS 1662000. Kaluanui Stream is an intermittent tributary to Honokōhau which contributed up to approximately 1 mgd to the Honokōhau Ditch during the wet season, but Diversion 768 on Kaluanui was abandoned in 2020. Natural low-flow duration estimates at the 825 foot elevation (above Diversion 770) on Honokōhau Stream and at the 800 foot elevation (above Diversion 769) on Honolua Stream are listed in Table 8.

## Trends in Rainfall and Streamflow

Long-term (1920-2012) and recent (1983-2012) trends indicate significant declines in rainfall across areas of West Maui, particularly during the dry season (Figure 4). For future rainfall projections, there is some disagreement between dynamical and statistical downscaling models used to predict rainfall for the RCP 4.5 and RCP 8.5 climate scenarios<sup>5</sup>, with dynamical models suggesting rainfall in the Honokōhau and Honolua aquifer systems marginally increasing (i.e., less than 3%) and statistical models suggesting rainfall declining 7.3% to 9.5%. Long-term declines in rainfall are generally coupled with a long-term decline in surface water availability and groundwater recharge, with consequences for base flow (Figure 5).

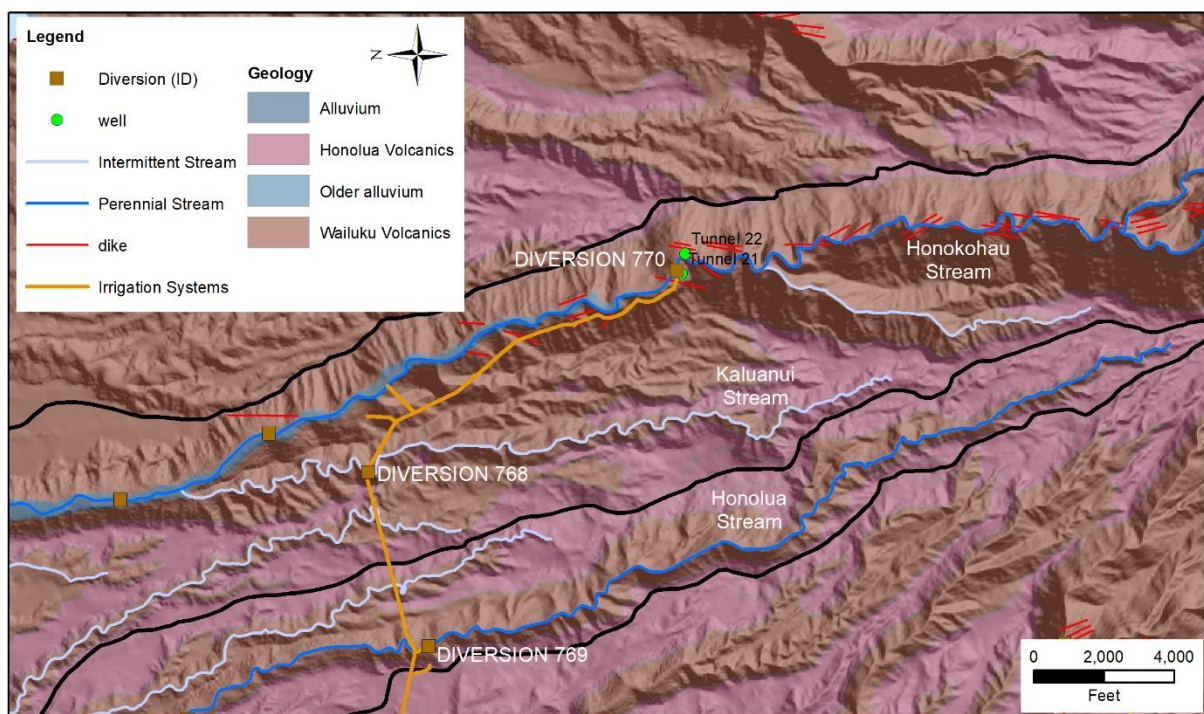
**Table 8.** Estimated natural median ( $Q_{50}$ ) and low-flow ( $Q_{60}$  to  $Q_{90}$ ) values available at the Honokōhau Ditch at 825 feet in elevation in the Honokōhau and 800 feet in elevation in Honolua hydrologic units. [cfs = cubic feet per second; mgd = million gallons per day]

Stream	Estimated natural-flow $Q_{50}$	Estimated natural-flow $Q_{60}$	Estimated natural-flow $Q_{70}$	Estimated natural-flow $Q_{80}$	Estimated natural-flow $Q_{90}$
Honokōhau <sup>1</sup>	30 (19.4)	26 (16.8)	23 (14.9)	20 (12.9)	17 (11.0)
Honolua <sup>2</sup>	3.8 (2.46)	2.3 (1.49)	1.2 (0.78)	0.40 (0.26)	0.0 (0.0)

<sup>1</sup>combined flow of USGS 1662000 and estimated Tunnel 21 and Tunnel 22 discharge as provided by USGS WRIR 03-4060

<sup>2</sup>from USGS SIR 2014-5087

**Figure 3.** Geology and extent of dike complexes in the Honokōhau and Honolua hydrologic units near development tunnels and stream diversions.



<sup>5</sup> Representative Concentration Pathway (RCP) are a set of greenhouse gas concentration trajectories adopted by the IPCC for its fifth Assessment Report in 2014

## AVAILABILITY OF ALTERNATIVE SOURCES

There are two potential alternative water sources that may be used to meet the needs of non-instream uses: 1) R1 recycled wastewater is available from the Lahaina Wastewater Treatment Facility (i.e., R1 alternative); 2) groundwater from the Honokōhau or Honolulu aquifer systems (i.e., groundwater alternative).

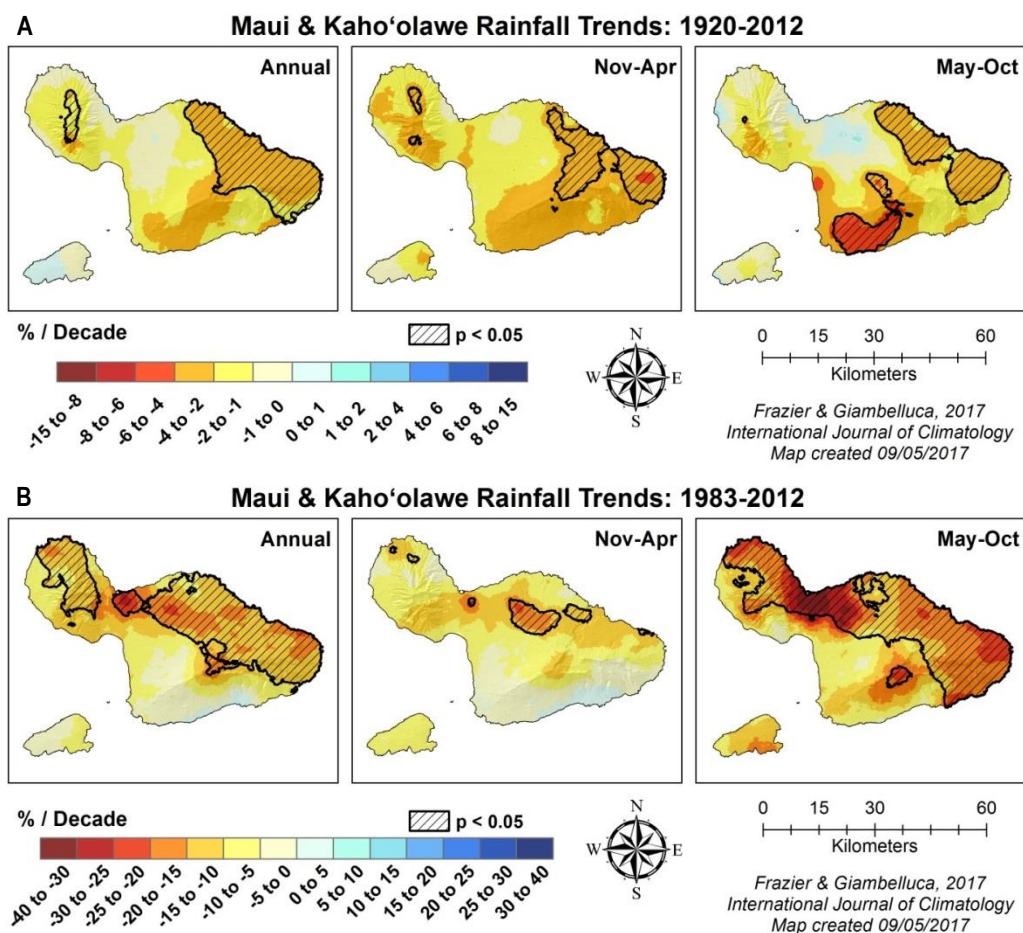
### **R1 Alternative**

Recycled wastewater treated to the R1 level can be used for golf course irrigation, landscape irrigation, and food crops. The Lahaina Wastewater Treatment Facility (LWWTF) currently produces about 4.0 mgd of R1 level water and is being upgraded to treat as much as 9.0 mgd. However, due to a lack of storage and distribution system, not all of this water is used and is currently pumped into injection wells. Because many of the sewage pipelines that feed the county wastewater transmission system located on private lands are in disrepair, saltwater intrusion into the system increases the chloride content of the wastewater up to 500 mg L<sup>-1</sup>. This level of chloride is unacceptable for most orchard or row crops, and therefore this does not present a viable alternative for agricultural uses unless it is mixed with additional surface or groundwater of lower chloride content, although it is still a viable source for landscape and golf course irrigation.

Maui County Department of Environmental Management (DEM) has a pipeline from its LWWTF to the Honokōwai Reservoir at an elevation of 300 feet. A former pipeline to Lower Field 14 Reservoir (TMK 4-4-004:012 State of Hawai‘i) needs some repair and Maui County is working on a replacement pipeline to increase the capacity. Utilizing these two reservoirs and rehabilitating the Field 140 Reservoir (4-4-002:016 MLP) would make it possible to blend ditch water diverted via Honokōhau Ditch with R1 water and make it available to support agriculture or other non-potable water needs in the region. The steps necessary to develop such a blending system in Field 140 Reservoir to achieve a desirable water source for all food crop uses needs to be supported by Maui County, DHHL, MLP, and other potential end users to be successful. In such a system, Maui County DEM would be the responsible party for managing the supply and end users would be responsible for developing an irrigation management plan that optimizes this water source.



**Figure 4.** Annual, wet season (Nov-Apr) and dry season (May-Oct) rainfall trends for the 1920-2012 (A) and 1983-2012 (B) periods, Maui. Hashed line areas represent significant trend over the period. (with permission from Frazier and Giambelluca, 2017)

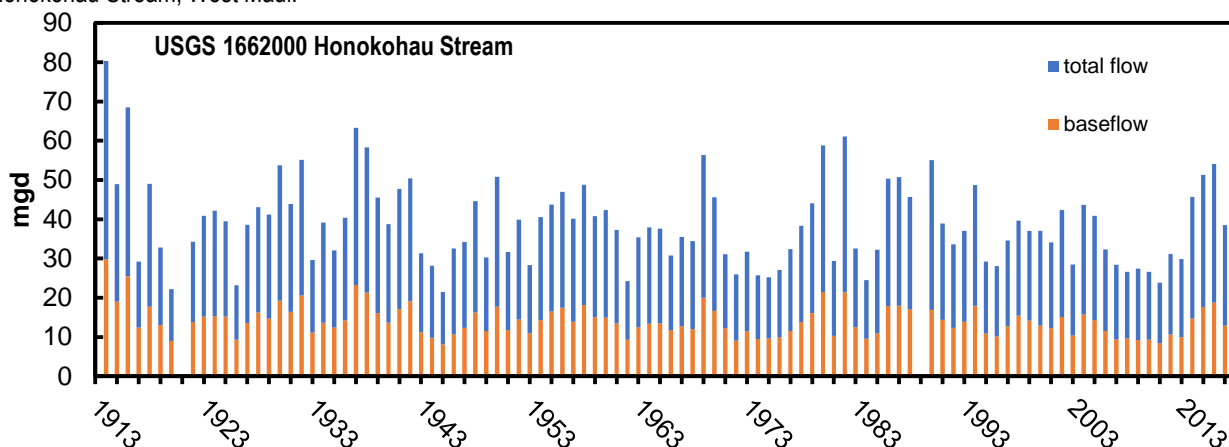


## Groundwater Alternative

Some areas of the Lahaina District of West Maui receives in excess of 250 inches of rainfall per year, providing recharge which saturates high level dike aquifers that then drain to basal aquifers at lower elevations. The principal dike trend ranges from 5° to 30°N in Honokōwai to almost northerly in Honokōhau. The dike zone plunges beneath the flank lavas several miles inland and groundwater from high level dike compartments seeps into the flank lavas, with leakage perpendicular to the trend adding to stream flow and further adding to local recharge of the basal lens.

The sustainable yields, current (2020) 12-month moving average, and 10-year average for the Honokōhau and Honolua aquifer systems are provided in Table 9. KWC operates three wells with a combined capacity of 3.51 mgd and a 2020 total 12-month average pumpage of 0.541 mgd and a 10-year total average of 0.557 mgd.

**Figure 5.** Mean annual total flow (million gallons per day, mgd) and mean annual baseflow (mgd) at USGS station 16620000 on Honokōhau Stream, West Maui.



**Table 9.** Current sustainable yields for aquifer systems in the Lahaina Aquifer Sector north of Lahaina, current (2018) 12-month moving average (MAV) pumpage, and 10-year average pumpage (without reporting development tunnel discharge). [million gallons per day, mgd]

System	Sustainable Yield (mgd)	2020 12-month MAV (mgd)	10-year average (mgd)
Honolua	8.0	2.124	2.391
Honokōhau	9.0	0.000	0.000

## SPECIFIC INSTREAM USE CONSIDERATIONS

The maintenance of instream flows is important for the protection of traditional and customary Hawaiian rights as they relate to the maintenance of stream (e.g., hīhīwai, ‘ōpae, ‘o‘opu) and riparian (vegetation) resources for gathering, recreation within streams, and the cultivation of kalo or other traditional crops. The traditional Hawaiian ahupua‘a concept is based on the premise of mauka-to-makai flow sufficient to sustain the environment and community. Historical surveys by Duncan and Shishido (1900) show as much as 51.75 acres of lo‘i kalo in Honokōhau Valley, although some of this was in the middle reaches above the current extent of community development.

Continuous streamflow benefits the maintenance of stream and nearshore habitat. In previous surveys pre-restoration (2003) and post-restoration (2005) of flow at Aotaki Dam (Diversion 770) on Honokōhau Stream, restoration of as little as 1.5 cfs (1.0 mgd), in combination with natural pulse flood events, provided sufficient habitat and connectivity for new recruits of o‘opu alamo‘o (*Lentipes concolor*), o‘opu nakea (*Awaous stamineus*), and ‘ōpae kala‘ole (*Atyoida bisulcata*) to return to the stream above Diversion 770. Recent (2019) surveys of Honokōhau and Honolua identified new recruits and reproductive-size adults of o‘opu alamo‘o, o‘opu nakea, o‘opu nopili (*Sicyopterus stimpsoni*), and ‘ōpae kala‘ole.

The floods following two hurricanes (Lane and Olivia) in August and September 2018 carved a new channel around Diversion 770, allowing for a wetted pathway mauka to makai. Diversion



769 on Honolua Stream was discontinued in 2006, with the grate and transmission tunnel clogged with sediment, and then destroyed in September 2018 by the floods.

Photographs of diversion 769 and 770 are provided in Figure 7 and Figure 8, respectively. A diagram of Honokōhau Ditch, streams, and diversion is provided Figure 9.

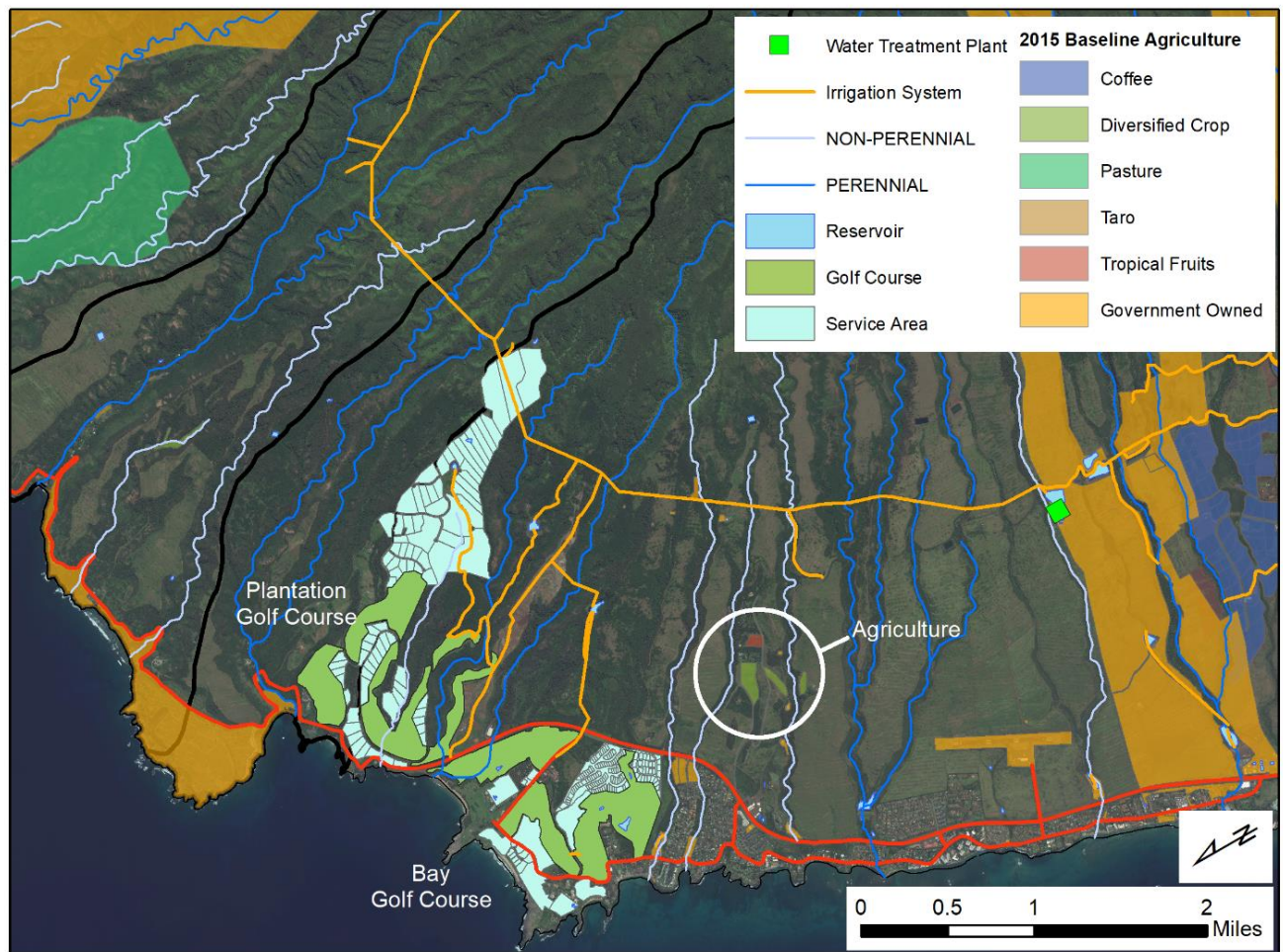
## NON-INSTREAM USE CONSIDERATIONS

### Kapalua Water Company Service Area

The active plantation diversions on Honokōhau and Honolua were originally built to irrigate pineapple and sugarcane for MLP and Pioneer Mill, respectively. In their registration, MLP stated that KLC used 3.3 mgd for the irrigation of 600 acres of golf course (5,500 gallons per acre per day; gad), which, at that time, included three golf courses. Although one golf course was closed, MLP opened a golf academy using some of the available acreage (Figure 6). In the same registration, KWC used 1.0 mgd for the irrigation of 220 acres of resort landscaping (4545 gad). Metered use by KWC reported for 2017 and 2018 indicates just approximately 0.893 mgd is used for resort and luxury home irrigation, approximately 0.748 mgd is used for golf course and related irrigation, and 0.14 mgd is used for diversified agriculture or other needs (Table 10). The non-potable water needs of the Kapalua area that were met by water diverted from Honokōhau Stream in 2017, 2018, and 2019, were 2.069 mgd, 1.397 mgd, and 1.851 mgd, respectively.

**Table 10.** Current actual and future estimated water use for various entities in the Kapalua-Napili region including golf course (GC) irrigation, resort landscape irrigation, luxury home landscape irrigation, Maui County Department of Water Supply (DWS), and Department of Hawaiian Home Lands (DHHL). [mgd = million gallons per day; gallons per acre per day, gad]

Water Use	2017 actual use (mgd)	2018 actual use (mgd)	2019 estimated use (mgd)	future estimated need (mgd)
Irrigation for Kapalua Resorts, common areas, luxury home landscaping	0.909	0.782	0.988	0.892
Irrigation for Plantation GC, Bay GC, Golf Academy	0.912	0.515	0.817	0.748
Other: Diversified Agriculture, Napili Gardens, Mailepai Cemetery, other homes	0.248	0.110	0.056	0.138
Future Planned Uses: Pulelehua, Waialele Ridge, Mahana Estates, Kapalua Mauka				3.64
Maui DWS Domestic/Municipal	1.74	1.78	2.00	2.50
DHHL Diversified Agriculture	--	--	--	2.00
Total	3.81	3.19	3.72	9.92

**Figure 6.** Current land use and service area of non-potable water from the Honokōhau Ditch in the Kapalua area of Maui.

## Municipal Water Supply

The County of Maui, Department of Water Supply (Maui DWS) serves a population of 18,122 within the Lahaina-Napili water system. This system relies on a combination of two surface water treatment facilities (WTF) at Lahaina and Māhinahina and 12 production wells. The total water production of Maui DWS is approximately 5.4 mgd, of which 5.08 mgd is considered domestic use (equating to 208 gallons per person per day) (Maui Water Use and Development Plan, 2017). Non-potable water from Honokōhau Stream is transmitted to the Maui DWS WTF at Māhinahina. Maui DWS is currently renegotiating an agreement for the transmission of up to 2.5 mgd of water from MLP. From 2015 to 2019, Māhinahina WTF treated a mean ( $\pm$ standard deviation) of 1.70 ( $\pm 0.28$ ) mgd of water received from Honokōhau Stream via Honokōhau Ditch, with a maximum daily production of 2.5 mgd.

## IMPLICATIONS OF WATER RESERVATION

Should the Commission approve this water reservation, the water reservation will be documented in the Water Resource Protection Plan, along with the prior-approved water reservations. The reservation will be included in the calculation of authorized planned use for consideration in water management area designation. Upon the designation of any of the hydrologic units as surface water management areas, staff will initiate review and rule-making pursuant to HRS §174C-49(d) and Hawaii Administrative Rule §13-171-60(b).

The utilization of 2.00 mgd of surface water from the Honokōhau surface water hydrologic unit will have minimal negative implications for instream uses, as defined by the HRS §174C-3, as this use is less than 11% of the estimated 19.4 mgd median flow ( $Q_{50}$ ) and 18% of the 11.0 mgd low-flow ( $Q_{90}$ ) in Honokōhau Stream at Aotaki Weir (Diversion 770).

## ASSESSMENT SUMMARY: HONOLUA HYDROLOGIC UNIT

### **Hydrology**

The Honolua hydrologic unit lacks high elevation dike-impounded groundwater. As a result, the stream naturally runs dry during periods of extremely low rainfall. Based on partial-record gaging station measurements, estimated median ( $Q_{50}$ ) and low ( $Q_{90}$ ) flow statistics for Honolua Stream above the intake for Honokōhau Ditch are 2.46 mgd and 0.00 mgd, respectively. Using two seepage runs, USGS estimated seepage loss below diversion 769 on Honolua Stream to be between 0.17 mgd per mile and 0.54 mgd per mile. Based on these measurements and a CWRM continuous-record gaging station at Honoapiʻilani Highway, mauka to makai flow does not occur naturally approximately 20% of the time.

### **Maintenance of Fish and Wildlife Habitat**

In 2005, diversion 769 on Honolua Stream was inactivated, and all flow returned to the stream past Honokōhau Ditch. However, even with full restoration of surface water, Honolua Stream does not flow to the ocean 100% of the time. As a result, the stream does not support native aquatic biota in the lower reaches. Immediately below the diversion and upstream of diversion 769, the stream flows nearly 100% of the time and supports many native biota with pool refugia providing habitat during days with zero flow. The stream also supports native damselfly species (*Magdala grion sp*) including the endemic *M. pacificum*. Stream surveys conducted in 2019, verified the utilization of upstream and downstream habitat by native aquatic species.

### **Outdoor Recreational Activities**

The Hawaii Stream Assessment classified the recreational resources of Honolua as “limited” with the lowest rank possible. There are some hiking and scenic views available in the lowest reaches and at the coast. Honolua Bay offers snorkeling, diving, and surfing.

### **Maintenance of Ecosystems**

The Hawaii Stream Assessment determined that the riparian resources of Honolua did not deserve to be a candidate for protection. Much of the riparian environment is dominated by non-native trees and shrubs, and pigs commonly damage the soil in lower elevations. There are

efforts to restore native species and control invasive species in the portion of Honolulu within the Pu‘u Kukui Watershed Preserve.

**Aesthetic**

There is aesthetic value in the lowest reaches of Honolulu Stream, where residents and the public interact with the stream.

**Maintenance of Water Quality**

Honolulu Stream is classified by the Department of Health as Class 1b inland waters in the upper elevations and Class 2 inland waters in the lower elevations. It does not appear on the 2014 List of Impaired Waters in Hawaii, Clean Water Act §303(d), although there was insufficient data to support any conclusions. The Honolulu hydrologic unit is part of the West Maui Ridge2Reef initiative in which multiple agency and stakeholder organizations are utilizing an all-encompassing approach to address land-based sources of pollution affecting nearby coral reef ecosystems. The initiative is working on reducing legacy sediment from historic agricultural practices that is carried in runoff into streams and out to the ocean.

**Conveyance of Irrigation and Domestic Water Supplies**

Honolulu Stream is not used for the conveyance of irrigation or domestic water supplies.

**Protection of Traditional and Customary Hawaiian Rights**

There is partial coverage of archeological surveys, with scattered density, and moderate sensitivity in Honolulu. There are examples of pre-contact culture with important and culturally noteworthy sites and historic features (e.g., auwai, terracing) associated with the stream both above and below diversion 769. Below the diversion there are registered uses which claim *kalo* cultivation. The cultural resources in Honolulu were ranked as outstanding by the Hawaii Stream Assessment; however, Honolulu was considered a religious center and not the primary *kalo* producing region compared to Honokōhau.

**ASSESSMENT SUMMARY: HONOKŌHAU HYDROLOGIC UNIT****Hydrology**

Stream flow in the Honokōhau hydrologic unit is supported by high elevation dike-impounded groundwater. The USGS maintains a continuous-record gaging station (station 16620000) at an elevation of 875 feet with median ( $Q_{50}$ ) and low ( $Q_{90}$ ) flow statistics of 15.5 mgd and 8.4 mgd, respectively. Median base flow at this station is estimated to be 11.2 mgd. Two development tunnels and a spring augment surface flow between USGS 16620000 and Aotaki Weir (Diversion 770) on Honokōhau Ditch, providing an additional  $Q_{50}$  and  $Q_{90}$  flow of 3.4 mgd and 2.3 mgd, respectively. Using seepage runs, USGS estimated a gain in surface flow from an elevation of 600 ft to an elevation of 340 ft at McDonald's Dam of at least 1.4 mgd and mauka to makai flow occurs 100% of the time.

**Maintenance of Fish and Wildlife Habitat**

In 2005, MLP initiated a release of 1.5 cfs (1.0 mgd) of stream water through Aotaki Dam (at Aotaki Gate) to supply a wetted pathway that supports habitat for migratory native biota. This release combined with a release of water at Taro Gate from Honokōhau Ditch supplied water for downstream uses. As a result, new recruits of amphidromous fish were observed above the

diversion. In 2018, flash floods from hurricanes Olivia and Lane carved a new channel around Aotaki Dam and a portion of Honokōhau Stream continues to bypass the original diverted channel. Thus, there is now greater connectivity to support native aquatic biota than there has been since the construction of Aotaki Dam. The Hawaii Stream Assessment ranked the aquatic resources of Honokōhau as “outstanding” (4 out of 4) with three of the most important native species observed (*o‘opu ‘alamo‘o*, *o‘opu nakea*, *o‘opu nopili*). In 2019, additional stream surveys verified the utilization of upstream and downstream habitat by these species.

### **Outdoor Recreational Activities**

The Hawai‘i Stream Assessment classified the recreational resources of Honokōhau as “substantial” (3 out of 4). There are hiking and swimming recreational opportunities in the lower elevations, with many families living in the valley.

### **Maintenance of Ecosystems**

The riparian resources of Honokōhau are dominated by detrimental plants (i.e., invasive, introduced) and only 30% of the riparian vegetation was native in the lower reaches. Invasive pigs damage the watershed in the lower reaches. There are efforts to restore native species and control invasive species in the portion of Honokōhau within the Pu‘u Kukui Watershed Preserve.

### **Aesthetic**

Honokōhau Waterfall is located at a high elevation above any diversions and is one of the top helicopter tour destinations on Maui. The stream provides aesthetic value for residents living in the valley. The stream provides aesthetic value for valley residents.

### **Maintenance of Water Quality**

Honokōhau Stream is classified by the Department of Health as Class 1b inland waters in the upper elevations and Class 2 inland waters in the lower elevations. It does not appear on the 2014 List of Impaired Waters in Hawaii, Clean Water Act §303(d), although there was insufficient data to support any conclusions.

### **Conveyance of Irrigation and Domestic Water Supplies**

Honokōhau Stream is not used for the conveyance of irrigation water. However, many homes rely on the stream for domestic uses.

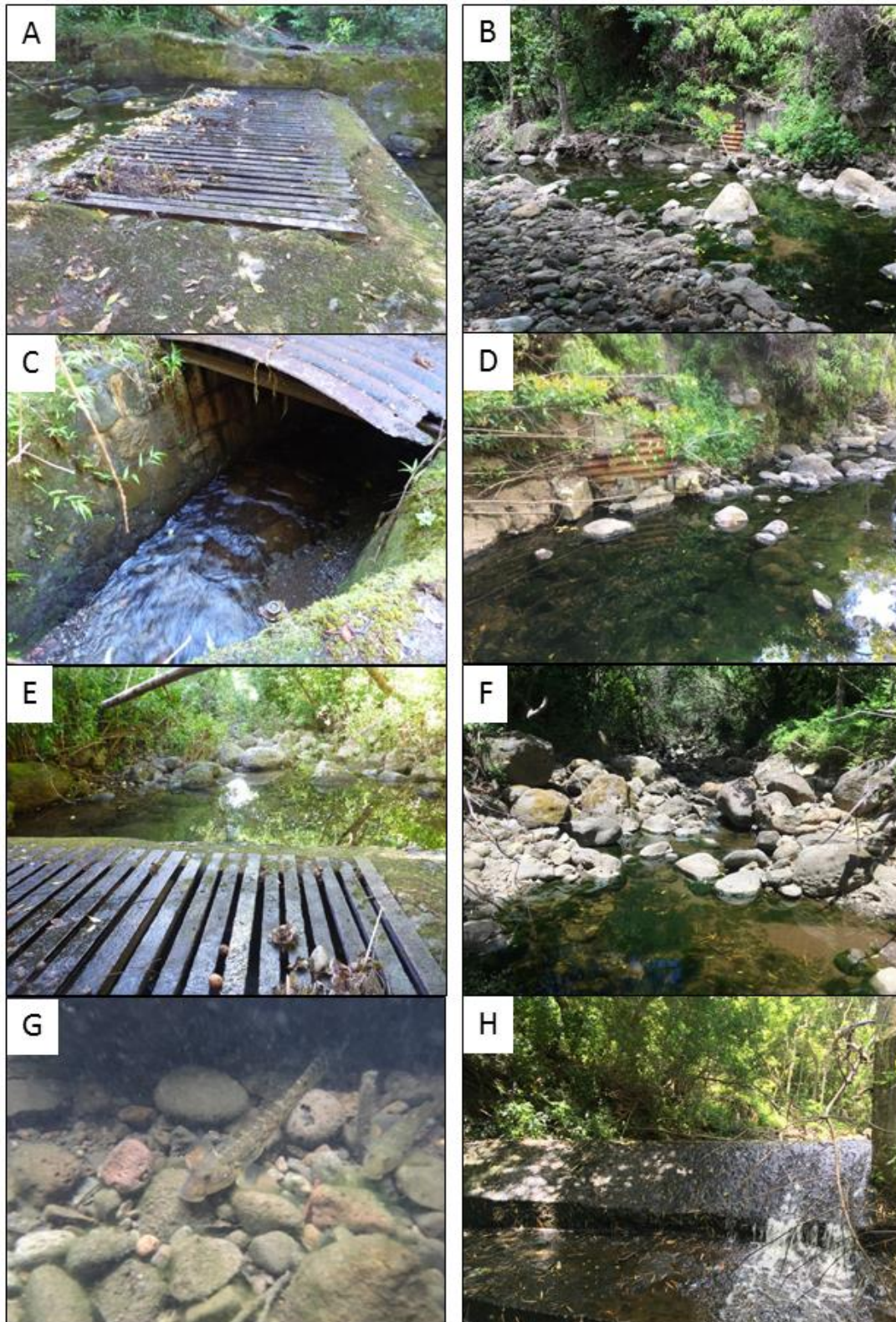
### **Protection of Traditional and Customary Hawaiian Rights**

Honokōhau Valley has one of the largest concentrations of historic *lo‘i* in Hawai‘i and cultural resources were ranked as “outstanding” (4 out of 4) by the Hawaii Stream Assessment. While there is low survey coverage of archeological sites in Honokōhau, there is high predictability and moderate density of pre-contact or early contact sites which contain important and culturally noteworthy information. There are 5.15 acres of identified *kuleana* parcels in the valley (estimated demand of 1.11 mgd) but as much as 50 acres of *li* in use historically. Currently, there are approximately 3.5 acres of active *lo‘i* (estimated demand of 0.75 mgd) but as much as 10 acres could be in cultivation with sufficient stream flow (estimated demand of 2.13 mgd).



## DHHL Reservation and Interim IFS for Honokōhau and Honolulu Hydrologic Units

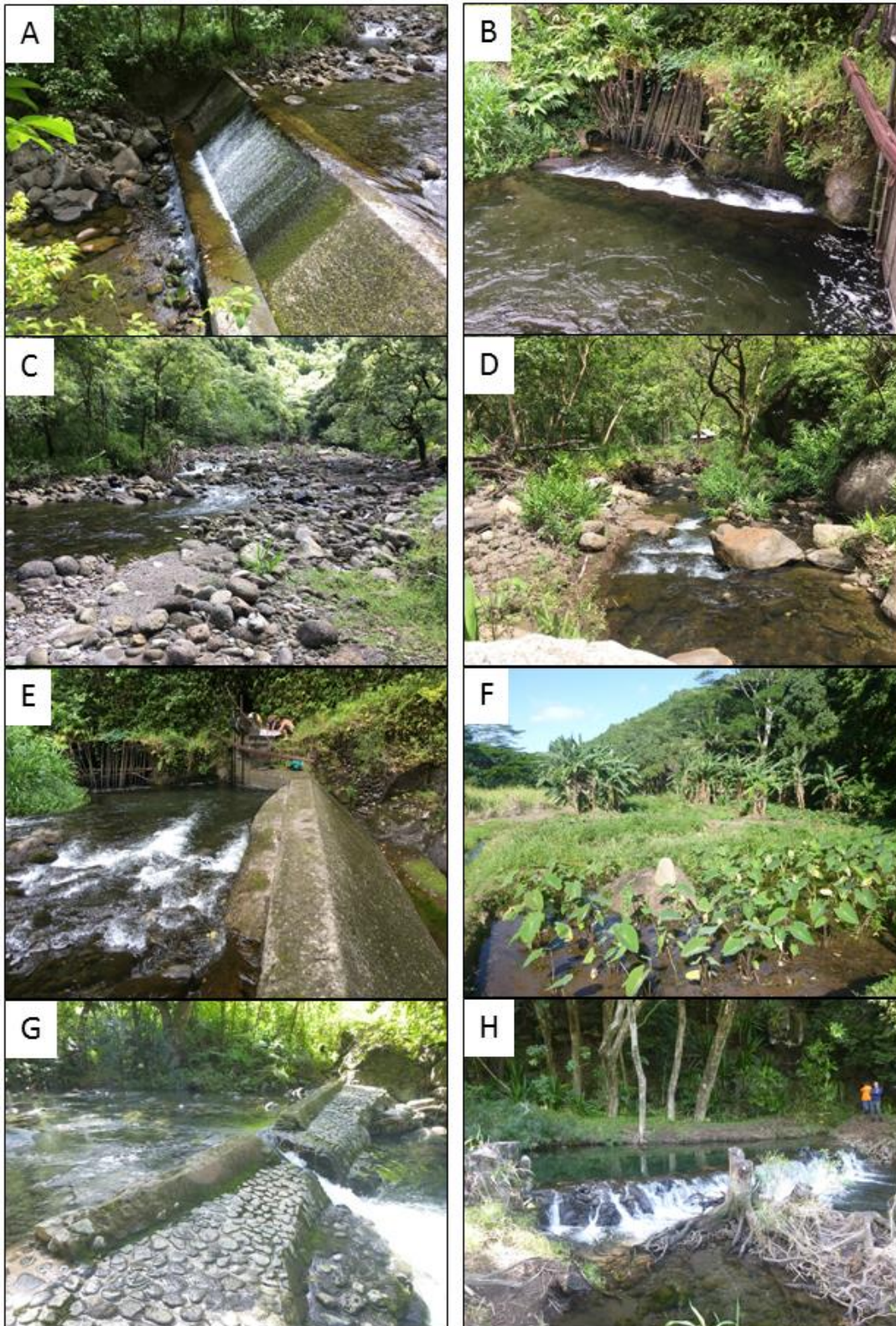
**Figure 7.** A) Diversion 769 on Honolua Stream from right bank before 2018 storm damage; B) Diversion 769 from right bank after 2018 storm damage; C) Intake at diversion 769 before 2018 storm damage; D) Intake at diversion 769 after storm damage; E) upstream view of Honolua Stream before 2018 storm damage; F) upstream view of Honolua Stream after 2018 storm damage; G) O'opu in Honolua Stream above diversion 769; H) Honokohau Ditch crossing at Honolua Stream.



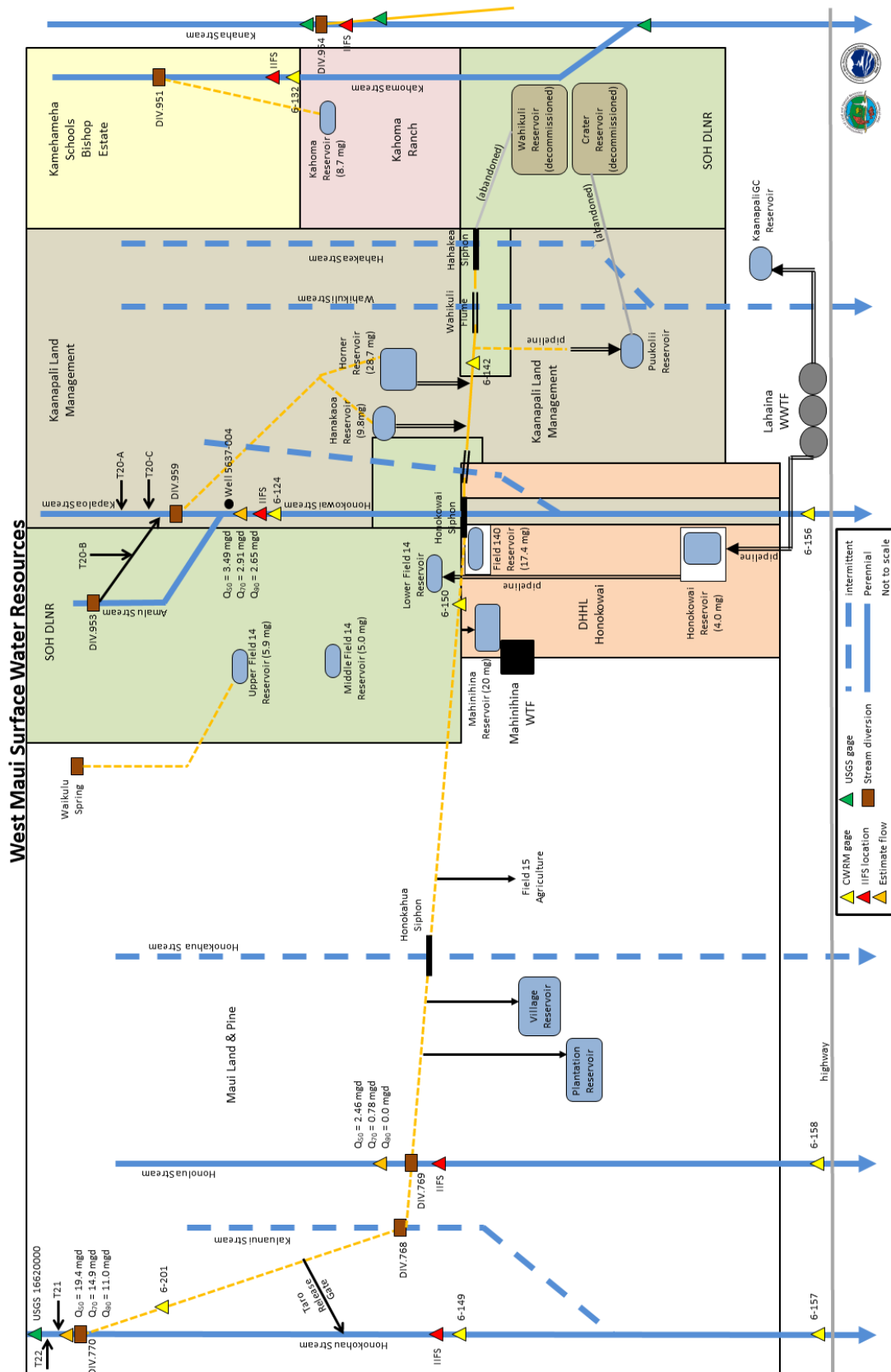


## DHHL Reservation and Interim IFS for Honokōhau and Honolulu Hydrologic Units

**Figure 8.** A) Diversion 770 on Honokōhau Stream from left bank; B) Intake at diversion 770 on left bank; C) upstream view of Honokōhau Stream following tropical storm Olivia; D) new channel along the right bank bypassing diversion 770; E) diversion 770 from right bank before Olivia; F) lo'i kalo in Honokōhau Valley; G) McDonald's Dam on Honokōhau Stream; H) unregistered auwai on left bank in Honokōhau Valley.



**Figure 9.** Simplified schematic of streams, ditches, pipelines, reservoirs, and tunnels in West Maui from Kahoma to Honokōhau.





### SUMMARY OF FINDINGS: HONOLUA HYDROLOGIC UNIT

1. The Honolua watershed is unique among the West Maui watersheds in that it is shorter in length, shallower in depth, and dominated by Honolua Volcanics and not Wailuku Volcanics, resulting in a lack of incised dike structures that would contribute to surface flow.
2. The estimated low-flow duration values for Honolua Stream at Diversion 769 are a median ( $Q_{50}$ ) flow of 2.46 mgd and a  $Q_{90}$  flow of 0.00 mgd.
3. Honolua Stream is expected to flow mauka to makai naturally only 80% of the time.
4. Honolua Stream supports a high density of native aquatic species upstream and immediately downstream of the Diversion 769
5. Since 2006, Diversion 769 on Honolua Stream has been inactive, and was subsequently destroyed by hurricanes Olivia and Lane.
6. Diversion 769 on Honolua Stream was formally abandoned on September 15, 2020.

### SUMMARY OF FINDINGS: HONOKŌHAU HYDROLOGIC UNIT

1. The estimated flow duration values for Honokōhau Stream at USGS 16620000 are a median ( $Q_{50}$ ) flow of 15.5 mgd, a  $Q_{90}$  flow of 8.4 mgd, with a  $BFQ_{50}$  of 11.2 mgd, and 64% of  $BFQ_{50}$  equal to 7.4 mgd.
2. Honokōhau Stream gains surface flow from two development tunnels and a spring between USGS 16620000 at an elevation of 875 feet and the Diversion 770 at an elevation of 825 feet; the magnitude of gain has a  $Q_{50}$  of 3.4 mgd and a  $Q_{90}$  of 2.3 mgd.
3. The total water available at Aotaki Weir at an elevation of 825 feet is estimated to have a  $Q_{50}$  flow of 19.4 mgd and a  $Q_{90}$  flow of 11.0 mgd.
4. Honokohau Stream gains approximately 1.4 mgd between Aotaki Weir at an elevation of 825 feet and McDonald's Dam at an elevation of 340 feet.
5. Diversion 770 at Aotaki Weir (Honokohau Ditch Intake #1) was designed to remove 100% of the flow in Honokōhau Stream at the 825ft elevation up to the  $Q_{10}$  magnitude flow (~55 mgd).
6. Honokōhau Stream is expected to flow mauka to makai naturally 100% of the time.
7. The Hawaii Stream Assessment rated Honokōhau Stream as having substantial recreational value, outstanding cultural resources, and outstanding habitat for freshwater biota.

8. There are at least 50 acres of potential lo‘i kalo in Honokōhau Valley in use as well as many other domestic needs that are met with surface water withdrawn from Honokōhau Stream.
9. The base flow of the stream is adequate to maintain a healthy aquatic ecosystem, aesthetic values, water quality, recreational uses, and traditional and customary practices.
10. Public trust uses of non-instream water include the reservation of water for the Department of Hawaiian Home Lands (2.0 mgd) to meet the future non-potable needs of homestead lots and the Maui DWS (2.5 mgd) to meet the domestic water demands in the Napili-Lahaina service area.
11. Hurricanes Olivia and Lane generated flash flooding conditions which damaged the intake at Diversion 770, making the intake inoperable.
12. Diversion 770 currently removes water in excess of existing non-instream uses during moderate to high flow conditions, including water that is wasted.
13. Diversion 768 on Kaluanui Stream has been inactive for many years and historically contributed very little to the flow in Honokōhau Ditch.
14. Diversion 768 on Kaluanui Stream was formally abandoned on September 15, 2020.
15. MLP uses approximately 1.78 mgd of non-potable water that is deemed a reasonable and beneficial use.

## RECOMMENDATIONS

Based on the above, and all applicable authority, the draft recommendations to be considered by the Commission at a later meeting are:

1. **PROPOSED ACTION: RESERVATION OF WATER FOR DHHL**
  - Approve a reservation of surface water for the Department of Hawaiian Home Lands based on the updated medium-range demands for the Honokōwai Regional Plan, in the amount of 2.00 mgd from the Honokōhau surface water hydrologic unit, Maui. The reservation of 2.00 mgd of non-potable water for DHHL will also provide more certainty for Maui DEM to invest in the infrastructure needed to blend and distribute R1 with reduced chloride levels that meet non-potable needs in the Lahaina Region.
2. **PROPOSED ACTION: INTERIM IFS ON HONOLUA STREAM**
  - Staff recommends that natural flow be established for Honolua Stream below the Honokōhau Ditch diversion to maintain the habitat immediately downstream of the diversion.

**IMPLEMENTATION**

- Diversion 769 was formally abandoned on September 15, 2020, so the interim IFS will take effect immediately.

**MONITORING**

- Staff shall continue to monitor streamflow by maintaining a stream gaging station on Honolulu Stream or coordinating with USGS as needed.

**3. PROPOSED ACTION: INTERIM IFS ON KALUANUI STREAM**

- Staff recommends 100% baseflow restoration be established for Kaluanui Stream below the Honokōhau Ditch diversion.

**IMPLEMENTATION**

- Diversion 768 was formally abandoned on September 15, 2020, so the interim IFS will take effect immediately.

**4. PROPOSED ACTION: INTERIM IFS ON HONOKŌHAU STREAM**

To protect instream uses and non-instream public trust uses, staff recommends that an interim IFS be established in two phases for Honokōhau Stream:

**Phase One (pre-DHHL implementation of Regional Plan)**

The interim IFS on Honokōhau Stream at McDonald's Dam (at the 340 foot elevation), shall be a flow of 8.6 mgd. The interim IFS represents the restoration of 64% of median base flow (BFQ<sub>50</sub>) as estimated at USGS 16620000 (7.4 mgd), plus the additional 2.3 mgd of groundwater gains between USGS 16620000 and Aotaki Weir and 1.4 mgd of groundwater gains between Aotaki Weir and McDonald's Dam minus 2.5 mgd for the Maui DWS. The interim IFS is expected to be in excess of the water needs to support the existing needs of lo'i as well as future acreage while protecting aquatic biota, recreation, and domestic uses at all elevations, and ensuring sufficient water to meet traditional and customary practices 100% of the time in Honokōhau Valley. MLP is required to meet the interim IFS 100% of the time. There should also be adequate ditch flow to meet Maui DWS needs of 2.5 mgd at the Māhinahina WTF 100% of the time. It is understood that during extreme drought (< Q<sub>90</sub>; < 11.0 mgd at Aotaki Weir), 100% of the off-stream needs of non-public trust uses may not be met.

**Phase Two (upon initial DHHL implementation of Regional Plan)**

The interim IFS on Honokōhau Stream at McDonald's Dam (at the 340 foot elevation), shall be a variable interim IFS (See Table 11 below). The interim IFS will be the restoration of 50% of total flow at USGS 16620000 plus 2.4 mgd in groundwater gained between USGS 16620000 and McDonald's Dam. The 2.4 mgd is 50% of the estimated 4.8 mgd in total groundwater gain between USGS 16620000 and McDonald's Dam. The interim IFS is expected to support all instream values and Honokōhau Valley domestic uses while providing for non-instream public trust uses (domestic uses provided by Maui DWS and DHHL). MLP is required to meet the interim IFS 100% of the time. There

should also be adequate ditch flow to meet Maui DWS needs of 2.5 mgd at the Māhinahina WTF 100% of the time. With 2.0 mgd of non-potable agricultural water for DHHL, Maui DEM can blend 2.1 mgd of R1 water from the Lahaina WWTF at 50:50 to make available 4.2 mgd of non-potable water to meet the agricultural needs of DHHL and other agricultural uses in the Lahaina Region. It is understood that during extreme drought ( $< Q_{90}$ ;  $< 11.0$  mgd at Aotaki Weir), 100% of the off-stream needs of non-public trust uses may not be met. However, KWC has plenty of capacity in its drilled wells to utilize groundwater as a backup supply for its non-potable needs when insufficient water is available in the ditch.

#### IMPLEMENTATION

- Interim IFS will be implemented within 120 days of Commission action.
- Staff shall seek to enforce the provisions of the State Water Code should any unauthorized, non-registered or non-permitted diversions be discovered in the course of its fieldwork.

#### MONITORING

- While staff relied on USGS seepage run measurements to evaluate stream gains and losses within Honokōhau, measurements were done during the 1995-1997. Additional measurements will be conducted as part of the Joint Funding Agreement with USGS approved by the Commission March 17, 2020 and as recommended by the USGS.
- Continued funding to support real-time gaging of Honokōhau Stream and ditch system to monitor the availability of water for multiple public trust purposes.

#### ENFORCEMENT

- Pursuant to HRS § 174C-15, the Commission recommends that a violation of the interim IFS be defined as when the mean daily flow measured or monitored in Honokōhau Stream at McDonald's Dam (at an elevation of 340 feet) does not meet the interim IFS for three or more consecutive days or four days out of seven in any consecutive period. Real-time interim IFS monitoring and mean daily flow calculations will be provided by the Commission through a publicly available cloud-based database. Real-time flow in Honokōhau Ditch at Adit 6 will also be provided by the Commission through this database.

#### EVALUATION

- Within five years from the date of Commission action, staff shall report to the Commission on the progress of implementing the interim IFS and the impacts of the interim IFS upon instream and non-instream uses.
- Based on existing hydrological data, current uses, proposed interim IFS values, and future public trust uses, estimates of water availability to meet non-instream, non-public trust uses are summarized for various flow values in Table 11.
- Staff shall assess the implementation of these strategies on an as-needed basis, as may be necessary upon consultation with the affected parties.

## DHHL Reservation and Interim IFS for Honokōhau and Honolua Hydrologic Units

**Table 11.** Predicted mean daily flow (mdf) and low-flow duration exceedance values (in million gallons per day, mgd) for flow above Diversion 770 at Aotaki Weir and available water for non-instream uses from Honokōhau Stream in Phase One and Phase Two of the proposed interim IFS values. Note: some discrepancy due to rounding

Phase One	Water Use	mdf	Q <sub>50</sub>	Q <sub>70</sub>	Q <sub>90</sub>
flow at USGS 1662000	instream	22.6	16.0	12.1	8.7
groundwater gains	instream	3.4	3.4	2.8	2.3
available above DIV 770	instream	26.0	19.4	14.9	11.0
groundwater gains	instream	1.4	1.4	1.4	1.4
interim IFS at McDonald's Dam	instream	<b>8.6</b>	<b>8.6</b>	<b>8.6</b>	<b>8.6</b>
amount available off stream	non-instream	18.8	12.2	7.7	3.8
<b>Uses met</b>					
Maui DWS domestic water supply		2.5	2.5	2.5	2.5
DHHL non-potable water demand <sup>1</sup>		0.0	0.0	0.0	0.0
MLP non-instream uses		1.8	1.8	1.8	1.8
<b>system loss:</b>		0.6	0.6	0.6	0.6
<b>total off-stream demand:</b>		4.3	4.3	4.3	4.3
<b>total off-stream demand met:</b>		4.3	4.3	4.3	3.2
<b>unmet demand:</b>		0.0	0.0	0.0	1.1
Phase Two		mdf	Q <sub>50</sub>	Q <sub>70</sub>	Q <sub>90</sub>
flow at USGS 1662000	instream	22.6	16.0	12.1	8.7
groundwater gains	instream	3.4	3.4	2.8	2.3
available above DIV 770	instream	26.0	19.4	14.9	11.0
groundwater gains	instream	1.4	1.4	1.4	1.4
interim IFS at McDonald's Dam	instream	<b>13.7</b>	<b>10.4</b>	<b>8.5</b>	<b>6.8</b>
amount available off stream	non-instream	16.0	12.0	9.1	6.5
<b>Uses met</b>					
Maui DWS domestic water supply		2.5	2.5	2.5	2.5
DHHL non-potable water demand		2.0	2.0	2.0	2.0
MLP non-instream uses		1.8	1.8	1.8	1.8
<b>system loss:</b>		0.6	0.6	0.6	0.6
<b>total off-stream demand:</b>		6.3	6.3	6.3	6.3
<b>total off-stream demand met:</b>		6.3	6.3	6.3	5.1
<b>unmet demand:</b>		0.0	0.0	0.0	1.3

<sup>1</sup>assumes DDHL demand only during Phase Two

## FORMAL COMPLAINT

- The interim IFS proposed will protect instream public trust uses including water in its natural state, domestic uses, and water for traditional and customary practices in the Honokōhau and Honolua hydrologic units while providing for non-instream public trust uses of water. These interim IFS also provide for off-stream uses of water that are reasonable and beneficial uses in the public interest, including making water available for

agriculture and providing a source of water to be blended with the available R1 recycled water, therefore helping to protect nearshore coral reef ecosystems.

- The actions proposed in this submittal will improve instream flows, upgrade the infrastructure to improve the management of the irrigation system and provide protections for public trust uses of water.
- Commission actions to address other portions of the complaint related to waste will be addressed by a future Commission action following additional research.

Ola i ka wai,

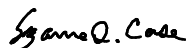


M. KALEO MANUEL  
Deputy Director

Note: Exhibits 1 to 4 are available from the Commission website at  
<https://dlnr.hawaii.gov/cwrmsurfacewater/ifs/westmaui3/>

Exhibit 1	DHHL land use designations and water use rates
Exhibit 2	Instream Flow Standard Assessment Report for Honolulu Hydrologic Unit 6013, PR-2019-02
Exhibit 3	Instream Flow Standard Assessment Report for Honokōhau Hydrologic Unit 6014, PR-2019-03
Exhibit 4	Compilation of Public Review Comments, PR-2019-04
Exhibit 5	CDR.5095.6 Complaint/Dispute Resolution Filing Form, Ka Malu o Kahalawai & West Maui Preservation Association, 4/23/2019
Exhibit 6	CDR.5095.6 Complaint/Dispute Resolution Response Form, Maui Land and Pineapple Company, Inc, 10/15/2019

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE  
Chairperson



**State of Hawaii**  
**COMMISSION ON WATER RESOURCE MANAGEMENT**  
**Department of Land and Natural Resources**

**COMPLAINT / DISPUTE RESOLUTION**  
**FILING FORM**

**Instructions:** Please print in ink or type and send completed form with attachments to the Commission on Water Resource Management, P.O. Box 621, Honolulu, Hawaii 96809. For further information and updates to this application form, visit <http://dlnr.hawaii.gov/cwrm/>.



1. Ka Malu o Kahalawai & West Maui  
Name: Preservation Association Date: 4/23/2019  
Address: c/o Law Office of Lance D. Collins  
P.O. Box 179336, Honolulu, HI 96817  
Daytime Phone No.: (808) 243-9292 Fax No. \_\_\_\_\_  
2. Location of the violation or water problem: Water diverted from Honokōhau stream overflows the Honokōhau ditch in areas extending south to Wahikuli and makai to Hanakao'o.  
(2) 4-5-021:005, 4-4-002:012; 4-4-002:013; 4-4-002:014; 4-4-005:035; 4-6-018:011, 4-4-004:013; and  
Tax Map Key: others.  
Landowner's Name: Dep't of Land and Natural Resources, Maui Land & Pine, Kaanapali Land Mgmt Corp. (lessee)  
DLNR: 1151 Punchbowl St., Honolulu, HI 96813  
Landowner's Address: MLP: 200 Village Rd, Lahaina, HI 96761  
DLNR: (808) 587-0400  
Landowner's Phone No.: MLP: (808) 665-5480  
3. The party I have a complaint about or dispute with is: (if more than one party, please attach additional sheets)  
Maui Land & Pine Company, Inc. (MLP); Kapalua Water Company (KWC); and Kaanapali Land Mgmt Corp.  
Name: (KLMC)  
Address: KLMC: (Gary Nickele), 275 Lahainaluna Road, Lahaina Hawai'i 96761  
KWC: (Tim Esaki, CFO) 200 Village Rd, Lahaina, HI 96761/ tesaki@kapalua.com  
MLP: (Warren Haruki, Tim Esaki, P. Subrata) 200 Village Rd, Lahaina, HI 96761  
KLMC: (808) 661-9652  
KWC: (808) 681-9311  
Phone No.: MLP (808) 665-5480

If the party is not the landowner listed in Section 2 above, please describe the party's relationship to the TMK parcel described in Section 2.

The intake from Honokōhau stream into Honokōhau ditch is located on MLP lands. Kapalua Water Company (KWC) is a wholly owned subsidiary of MLP. Upon information and belief, Aqua Engineers, Inc. operates the KWC and took over supervisory responsibility for Honokōhau and Honolulu ditch management. MLP is diverting water from Honokōhau stream and into the Honolulu and Honokōhau ditches, which runs across MLP lands and lands held by other entities, including KLMC.

KLMC holds a revocable permit from DLNR to use lands underlying the Honokōhau ditch at several locations of the water wasting practices, running south towards Lahaina. KLMC has sought to obtain a long term lease for these lands.

FILE ID: CDR.5095.6

CDR-FILE Form (02/28/2007)

4. Describe the complaint or reason for the dispute:  
(Attach a sketch or photograph if that will help explain the problem.)  
*See Addendum to Complaint/Dispute Resolution Form, Response to Question No. 4.*
5. Describe how your water usage or water rights are specifically affected by the other party, if at all:  
  
Ka Malu o Kahalawai members include kalo farmers who farm on lands adjacent to Honokōhau stream and who require the water that is otherwise diverted into the Honokōhau ditch. For many years, these members have sought restoration of Honokōhau stream water to support traditional lo'i kalo growing.  
  
Members also include those who conduct traditional and customary practices of fishing, surfing, canoe paddling, and diving in nearshore areas where the wasted water meets the ocean. The wasted water is warmer and its periodic intrusion may interfere with reef and other nearshore ecosystems and water quality, both of which are necessary for cultural resources for members' traditional and customary practices and recreation.  
  
West Maui Preservation Association also has members who conduct traditional and customary practices that depend on Honokōhau stream water and healthy nearshore coastal resources along West Maui's coasts.
6. Date the problem was first noticed: Several decades ago, with several large wasting events observed in late 2018.
7. If this complaint or dispute is related to a water source, was the water source previously declared with the Commission on Water Resource Management?  
  
☒ Yes    ☐ No    ☐ Don't Know  
  
If yes, what was the name and tax map key of the source?  
  
Honokōhau ditch TMKs: (2) 4-4-002:012; (2) 4-4-002:013; (2) 4-4-002:014; (2) 4-4-005:035; (2) 4-5-021:005; (2) 4-6-018:011, and others.  
MLP Honokōhau ditch intake: (2) 4-1-001:017  
Honokōhau Taro Gate: (2) 4-1-001:009
8. Have you had any communication with the party/parties described in Section 3 above?  
  
☒ Yes    ☐ No  
  
If yes, list the communications and dates: (Attach copies if written communications were made)  
  
*See Addendum to Complaint/Dispute Resolution Form, Response to Question No. 8.*
9. Have you sought resolution of this matter with any other entity?  
(e.g., government agency, judicial body, or private entity)  
  
Yes, each of the communications listed under Response to Question No. 8 constituted attempts to have the water wasting stopped.  
  
If so, with whom and what was the outcome?  
(Please provide copies of any documentation of this process)  
  
No responses have been forthcoming. Please see responses to Response Question No. 8.



10. Describe what you believe a successful and fair remedy might be:

Petitioners seek to prevent wastage by restoring to Honokōhau stream surface water in amounts equal to that wasted. Petitioners seek to require upgrades to MLP/KWC's diversion intake works from Honokōhau stream to Honokōhau/ Honolulu ditch to better regulate the amounts removed from Honokōhau stream to avoid waste in areas including lands used by KLMC through which the Honokōhau ditch runs. Upgrades and better maintenance and regulation of the Taro Gate would also allow more water to be restored to Honokōhau stream, instead of contributing to wasting events in offstream areas, including agricultural fields further south towards Wahikuli. KLMC should be prevented from allowing ditch water to run into fields and roads adjoining the ditch. KLMC's wastage facilitates MLP/KWC's ability to ignore the need to upgrade its intake/ diversion works and better regulation and maintenance of the taro gate.

MLP/KWC's intake should be upgraded such that it can be closed during periods of high water flow. This may mean better monitoring so that the Aotaki gate can be closed during high flow (or during times that less water is needed in the Honokōhau ditch) and thereby result in that surface water remaining in the Honokōhau stream. Another solution might lie in investing in sealing the current diversion and installing a gate with remote control capacity (to avoid difficulties and inconvenience with accessing the intake). Petitioners note that Kamehameha Schools has installed a remote control valve to control gate above Kahoma stream that can be controlled via a computer.

I request that the Commission on Water Resource Management assist in resolving the matter described herein.



\_\_\_\_\_  
Signature



\_\_\_\_\_  
Date

**Addendum to COMPLAINT / DISPUTE RESOLUTION FILING FORM**

*Response to Question No. 4: Describe the complaint or reason for the dispute.*

Petitioners' reasons for the dispute.

Petitioners' members rely on Honokōhau stream water for lo'i kalo, other agriculture, and domestic purposes. Members have a long history of complaints against MLP's failure to properly regulate its diversion of Honokōhau stream waters into the Honolulu/ Honokōhau ditch and, conversely, to return water to the stream via the Taro Gate, which is downstream from the Honokōhau ditch intake. Members have concerns about ecological impacts on cultural resources consequent to periodic flows of ditch water running through Hahakea/ Wahikuli gulches to the coast.

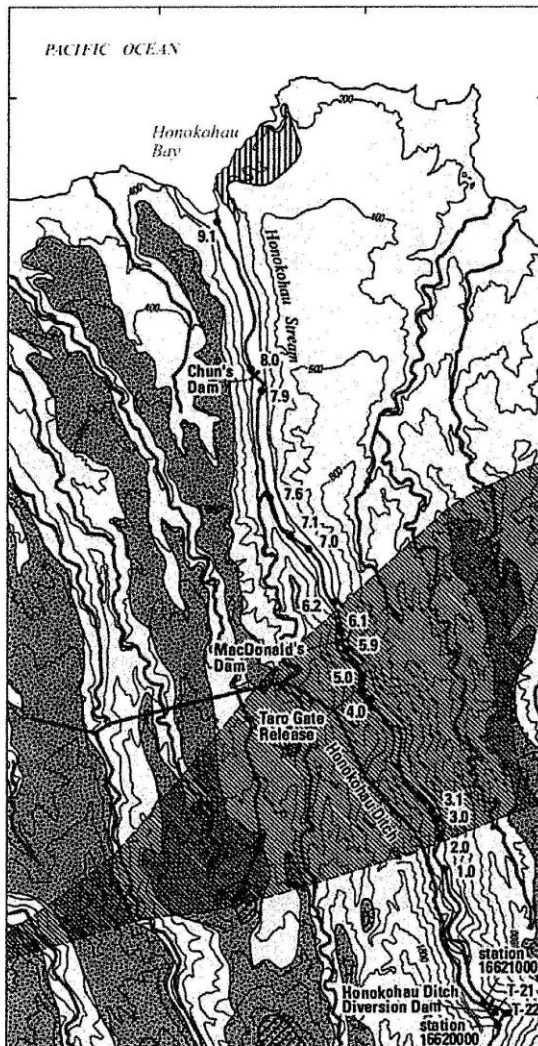


Fig. 1. Streamflow measurement sites and location of intake and Taro Gate. From Richard A. Fontaine, U.S. Geological Survey, "Availability and Distribution of Base Flow of Honokohau Stream, Island of Maui, Hawaii," Water-Resources Investigations Rpt. No. 03-4060, at 9 (Honolulu, 2003).

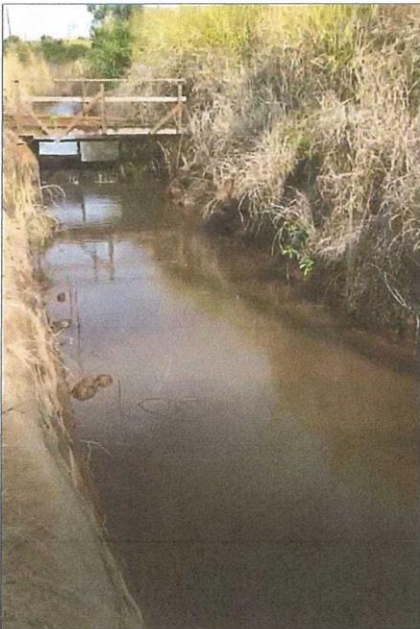
Wasting events

Diverted water is warmed while traveling through the Honokōhau ditch. For at least several decades, Petitioners observed periodic flows of warmed ditch water entering Hanakao‘o and nearby coastal waters from Honokōwai stream, Hahakea gulch, and sometimes Honolulu stream. The warmed water flows are observed several times a year and have been going on for decades.

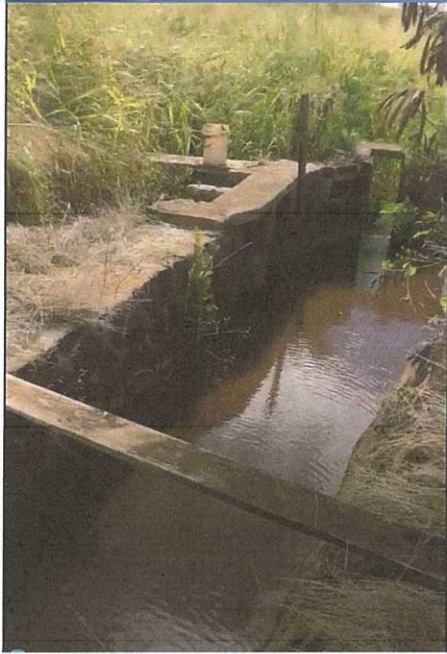
In September 2018, Hurricane Olivia caused significant flooding and damage in Honokōhau valley. Thereafter, on October 5, 2018, Petitioners hiked to the intake and observed a new “stream” running around the diversion instead of remaining within Honokōhau stream. The Taro Gate was closed by excessive debris and therefore the extra water resulting from the storm went to the Honokōhau ditch, where it was spilled into fields and wasted.

On November 24, 2018, Wood emailed Roy Silva of Aqua Engineers, Inc., which is believed to be a managing entity for Honokōhau ditch, to make these ditch managers aware that Honokōhau stream was diminished while a new stream running around the Honokōhau diversion works had appeared.

On December 4, 2018, Petitioners observed water from Honokōhau ditch freely exiting the Honokōhau ditch through a gate and spilling into the fields and entering the Wahikuli Gulch at the northern end of the Wahikuli Flume. From there, the water spilled into agricultural fields and over cane haul roads into Wahikuli gulch. Also around this time, Petitioners observed water constantly flowing from Hahakea gulch (into which merges Wahikuli stream) into the ocean by Hanakao‘o (Canoes beach). West Maui skies were clear and sunny when these wasted water flows were observed. *See Fig. 2-6.*



*Fig. 2. Honokōhau ditch portion adjacent to Wahikuli flume. Screenshot of video taken by Wili Wood on Dec. 4, 2018.*



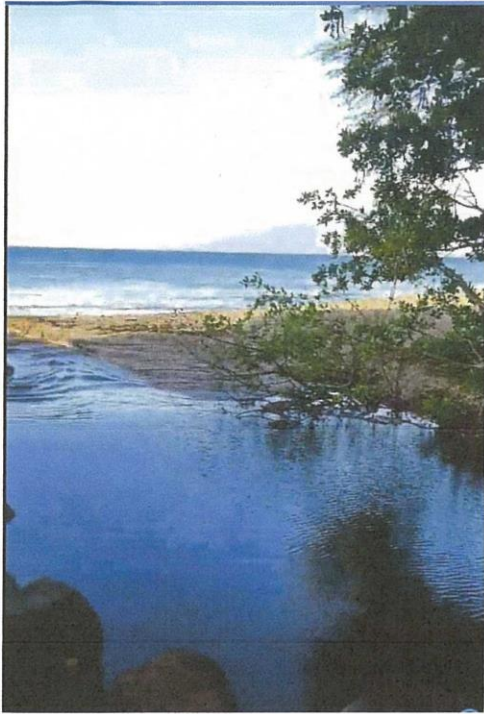
*Fig. 3 (left) Water leaving Honokōhau ditch via Wahikuli flume. Screenshot of video taken by Wili Wood on Dec. 4, 2018.*

*Fig. 4 (right) Water from Wahikuli flume crossing cane haul road. Screenshot of video taken by Wili Wood on Dec. 4, 2018.*



*Fig. 5 (left) Water from fields makai of cane haul road flowing into Wahikuli gulch. Screenshot of video taken by Wili Wood on Dec. 4, 2018.*





*Fig. 6. Honokōhau stream water flowing from Hahakea/ Wahikuli gulch through Hanakao'o beach. Screenshot of video taken by Kai Keahi (approx. Dec. 9, 2018).*

On or about December 9, 2018, Petitioner-member Kai Keahi observed that Honokōhau ditch water was flowing out to the ocean at Hanakao'o. At that time, Honokōhau stream was low - about ten inches to a foot lower than usual, and the Taro gate (installed for Honokōhau stream taro growers) was closed.

Also on December 9, 2018, Keahi called Roy Silva, who he believed to be working for MLP, to instruct him to restore water to Honokōhau stream instead of dumping into Wahikuli/ Hahakea gulches. Keahi was informed that water was being "turned off" at Mahinahina and Honokōwai, where several reservoirs exist, and pushed south towards Lahaina. Honokōhau ditch water was being dumped into fields near Wahikuli and Hahakea gulch and flowing to the ocean.

*Response to Question No. 8: Have you had any communication with the party/parties described in Section 3 above?*

Around ten years ago, Petitioner-member Kai Keahi called Jeffery Pearson of MLP. Keahi, Pearson, and Kimo Kapalehua discussed the issue of Honokōhau stream water being wasted from the Honokōhau ditch. MLP did not provide answers or plans for remediation.

In September 2018, Hurricane Olivia caused significant flooding and damage in Honokōhau valley. Prior to this time, the Honokōhau ditch system was reportedly managed by Steven Nikaido of Hoa 'Āina Farm Services, LLC. However, Nikaido passed away roughly one week prior to Hurricane Olivia events and Hoa 'Āina Farm Services has apparently transferred management of the ditch to Aqua Engineers.

On October 5, 2018, Petitioners noticed water wasting from Honokōhau stream. Petitioner-member Wili Wood contacted Paul Subrata from Kapalua Water Co. (which obtains water via Honokōhau tunnel) and Pōmaika'i Crozier, manager of the Pu'u Kukui Watershed partnership. Both referred Petitioners to Roy Silva of Aqua Engineers, Inc., who denied a contractual responsibility to "take care of the ditch," but also apparently coordinates use of the Honokōhau ditch waters. Silva stated he would open the taro gate to alleviate the low flow in Honokōhau stream by January 15, 2019. *See* Exh. 01 (Emails between Wili Wood, Petitioner-member, and Paulus Subrata, MLP (Oct. 2018)).

On November 24, 2018, Wood emailed Silva to make him aware that Honokōhau stream was diminished while a new stream running around the Honokōhau diversion works had formed. *See* Exh. 02 (Emails between Wili Wood, Petitioner-member, and Roy Silva, Aqua Engineers (Nov. 24, 2018 to Dec. 18, 2018)).

On December 9, 2018, Petitioner Keahi called Roy Silva to complain about water dumping from Honokōhau ditch into Hahakea gulch.

On January 15, 2019, Wood received a phone call from Silva, who stated that the taro gate would not be opened until the end of February after the entire ditch system was cleaned from the intake in Honokōhau stream to the powerhouse siphon in Honokahua. That was the last Petitioners heard from Silva and no restoration of stream water has occurred.

Petitioners had also met and talked to Ayron Strauch of CWRM to discuss KLMC's proposal to lease lands underlying Honokōhau ditch and informed him of the location of water spillage in Kā'anapali areas. After meeting with Strauch, Wood researched the proposed lease for Honokōhau water and identified the area where water was being wasted from Honokōhau ditch on a map. *See* Exh. 02 (map with water wasting location highlighted in red). Wood forwarded the highlighted map and other KLMC documents to Kapule Eubank, who has a home in Honokōhau valley. Strauch was installing a stream flow meter next to Eubank's home.

On or about February 10, 2019, Eubank shared Wood's map and papers with Strauch. Strauch confirmed with Eubank that water was being wasted from the ditch and shared Petitioners' concerns about long-term leasing to KLMC without first modifying the Honokōhau ditch system.

Strauch, however, noted that while he could make recommendations, he had restricted enforcement powers concerning proper water usage.

To the knowledge of petitioners, no further actions have been taken to remediate water wasting from the Honokōhau ditch or to upgrade diversion works at Honokōhau stream.

**From:** Paul Subrata <[psubrata@mlpmaui.com](mailto:psubrata@mlpmaui.com)>  
**Date:** October 16, 2018 at 9:11:14 AM HST  
**To:** Roy Silva <[rsilva@aguaengineers.com](mailto:rsilva@aguaengineers.com)>, "[woodwili100@gmail.com](mailto:woodwili100@gmail.com)"  
<[woodwili100@gmail.com](mailto:woodwili100@gmail.com)>  
**Cc:** Pōmaika'i Kaniaupio-Crozier <[pkaniaupio-crozier@kapalua.com](mailto:pkaniaupio-crozier@kapalua.com)>  
**Subject:** Fwd: Honokohau

Hi Wili, thank you for talking to me this morning. Cc'd on this email is Roy Silva whose team been working on the ditch as of late. His number is (808) 681-9311.

Hi Roy, I spoke to Wili Wood earlier and he was Stephen Nikaido eyes and ears up in Honokohau and have worked closely in the past. Wili and the community does farming in the area and would like to get updates on the situation at the intake. I'm providing you his contact information so we can keep in constant communication with him. His number is 808-870-0552 or 808-669-3038.

Thanks,

Paul  
808-757-2666  
Sent from my iPhone

Begin forwarded message:

**From:** Wili Wood <[woodwili100@gmail.com](mailto:woodwili100@gmail.com)>  
**Date:** October 15, 2018 at 8:42:02 PM HST  
**To:** [psubrata@mlpmaui.com](mailto:psubrata@mlpmaui.com)  
**Cc:** Elle Cochran <[ellekcochran@gmail.com](mailto:ellekcochran@gmail.com)>, Kekai Keahi  
<[kekaikeahi@gmail.com](mailto:kekaikeahi@gmail.com)>, Pomaikai Kaniaupio-Crozier <[maunahalawai2@gmail.com](mailto:maunahalawai2@gmail.com)>  
**Subject:** Re: Honokohau

Aloha Paul,  
Please see the message below I had forwarded to Pōmaika'i Crozier. He has put me in contact with you. Please let me know when you are able to meet. I look forward to your reply.

Mahalo Nui,  
Wili Wood

On Thu, Oct 11, 2018 at 10:33 AM Pōmaika'i Kaniaupio-Crozier <[pkaniaupio-crozier@kapalua.com](mailto:pkaniaupio-crozier@kapalua.com)> wrote:

Aloha mai e Council member Elle, Wili & Kekai

Mahalo for your email and raising your concerns, my role of taking care of Pu'u Kukui Watershed Preserve is to protect the native biodiversity up ma uka and keep that

## EXHIBIT 01



natural native sponge intact which benefits water recharge and retention and ecosystem function as whole healthy. However, I have nothing to do with water transmission or ditch related issues. I am putting you in contact via this email with Paul Subrata who is in charge of water for ML&P. Aloha

**From:** [ellekcochran@gmail.com](mailto:ellekcochran@gmail.com) <[ellekcochran@gmail.com](mailto:ellekcochran@gmail.com)>  
**Sent:** Tuesday, October 9, 2018 10:02 PM  
**To:** Wili Wood <[woodwili100@gmail.com](mailto:woodwili100@gmail.com)>  
**Cc:** Pōmaika'i Kaniaupio-Crozier <[pkaniaupio-crozier@kapalua.com](mailto:pkaniaupio-crozier@kapalua.com)>; [kekaikeahi@gmail.com](mailto:kekaikeahi@gmail.com)  
**Subject:** Re: Honokohau

Per Jeff Pearson Chair for CWRM  
MLP would need to get permit to do such work. Cwrn would allow it then.

Sent from my iPhone

On Oct 9, 2018, at 5:10 PM, Wili Wood <[woodwili100@gmail.com](mailto:woodwili100@gmail.com)> wrote:

Aloha Pomaika'i

As you are probably aware, the Honokohau water diversion has been compromised. A few others and I personally walked the stream on Friday October 5th to investigate debris in the upper valley and made it to the diversion. We found that the storm water from Olivia has cut a new stream right around the Honokohau diversion. Please see attached video. It is to the best of my knowledge that this can not be fixed by hand tools. Being that we are downstream users of this water source, we request to be notified of the plans in moving forward. Can you please put us in contact with the appropriate parties?

Mahalo nui for your time,  
Wili Wood

Sent from my iPhone

Begin forwarded message:

## EXHIBIT 01

**From:** Wili Wood <[woodwili100@gmail.com](mailto:woodwili100@gmail.com)>  
**Date:** October 8, 2018 at 9:32:34 PM HST  
**To:** Wili Wood <[woodwili100@gmail.com](mailto:woodwili100@gmail.com)>

<IMG\_2330.MOV>

Sent from my iPhone

**EXHIBIT 01**

**From:** Roy Silva <[rsilva@aquaengineers.com](mailto:rsilva@aquaengineers.com)>  
**Date:** December 18, 2018 at 6:53:05 AM HST  
**To:** Wili Wood <[woodwili100@gmail.com](mailto:woodwili100@gmail.com)>  
**Cc:** Pōmaika'i Kaniaupio-Crozier <[pkaniaupio-crozier@kapalua.com](mailto:pkaniaupio-crozier@kapalua.com)>, "ayron.m.strauch@hawaii.gov" <[ayron.m.strauch@hawaii.gov](mailto:ayron.m.strauch@hawaii.gov)>, Dean U <[dean.d.uyeno@hawaii.gov](mailto:dean.d.uyeno@hawaii.gov)>, Kekai Keahi <[kekaikeahi@gmail.com](mailto:kekaikeahi@gmail.com)>, Paul Subrata <[psubrata@mlpmaui.com](mailto:psubrata@mlpmaui.com)>  
**Subject:** Re: Honokohau Stream Flow Issues Nov 2018

Morning,

What about tomorrow morning at 10:00 at our KWC office ?

Sent from my iPhone

On Dec 17, 2018, at 7:50 PM, Wili Wood <[woodwili100@gmail.com](mailto:woodwili100@gmail.com)> wrote:

Aloha Roy,  
When is best for you? I can make myself available as needed. I look forward to meeting with you. Mahalo

Wili Wood

On Dec 17, 2018, at 1:50 PM, Roy Silva <[rsilva@aquaengineers.com](mailto:rsilva@aquaengineers.com)> wrote:

Aloha Wili,

When can we meet to discuss Honokohau ditch ?

Thanks

*"The less we talk the more we hear"*

**Roy J Silva**  
Island Operations Manager  
Aqua Engineers, Inc.  
200 Village Rd, Lahaina HI 96761

Mobile: 808 - 681-9311  
Email: [rsilva@aquaengineers.com](mailto:rsilva@aquaengineers.com)  
<image001.png>

CONFIDENTIALITY NOTICE: This message and any attachments to it may contain privileged and confidential information. This information shall not be forwarded, distributed, or disclosed to anyone. If you have received this message in error or are not the intended recipient, please do not retain, distribute, disclose, or use any of this information; destroy the e-mail and any attachments and copies immediately; and call (808) 681-9311 to report the error.

**EXHIBIT 02**

**From:** Pōmaika'i Kaniaupio-Crozier [mailto:pkaniaupio-crozier@kapalua.com]  
**Sent:** Monday, December 17, 2018 11:14 AM  
**To:** Wili Wood <woodwili100@gmail.com>  
**Cc:** ayron.m.strauch@hawaii.gov; Dean U <dean.d.uyeno@hawaii.gov>; Kekai Keahi <kekaikeahi@gmail.com>; Roy Silva <rsilva@aquaeengineers.com>; Paul Subrata <psubrata@mlpmaui.com>  
**Subject:** Re: Honokohau Stream Flow Issues Nov 2018

Aloha e Wili

Mahalo for your hard work, observations and for reaching out. As mentioned in previous emails Paul Subrata of ML&P is the person in charge and has put Roy Silva of Aqua Engineering at the helm. Therefore, I am including them in this correspondence.

There have been on going efforts to mitigate the unprecedented damage in the aftermath from Tropical Storm Olivia and work is ongoing as you were present with CWRM in the reconnaissance.

After we spoke on Thursday, I flew into Honokohau with a crew to clear debris up ma uka and attempted to access taro gate but was unsuccessful due to time available and landslides along ditch trail. Please reach out to Paul and Roy to discuss or let me know if you need my assistance to set up a meeting.

The health of entire watersheds are a priority and mahalo for your support and all that you do to keep Honokohau ahupua'a intact. Aloha

---

**From:** Wili Wood <woodwili100@gmail.com>  
**Sent:** Saturday, December 15, 2018 8:36 PM  
**To:** Pōmaika'i Kaniaupio-Crozier  
**Cc:** ayron.m.strauch@hawaii.gov; Dean U; Kekai Keahi  
**Subject:** Fwd: Honokohau Stream Flow Issues Nov 2018

Aloha Pomaika'i

I want to thank you for answering my phone call this past Thursday to speak about the low flow of water we have been seeing in Honokohau stream since around mid November. We believe this is due to the taro gate being closed with debris. We would like to open a dialogue with the operator of this ditch system but are having a hard time finding the responsible party. The lack of adequate flow brings concerns regarding the health of the aquatic life and the maintaining of traditional and customary practices of downstream users. Mahalo for your time and I look forward to your reply.

----- Forwarded message -----

From: **Wili Wood** <woodwili100@gmail.com>

## EXHIBIT 02

Date: Wed, Nov 28, 2018 at 9:24 PM  
Subject: Fwd: Honokohau Stream Flow Issues Nov 2018  
To: <[psubrata@mlpmaui.com](mailto:psubrata@mlpmaui.com)>  
Cc: Kekai Keahi <[kekaikeahi@gmail.com](mailto:kekaikeahi@gmail.com)>, <[pkaniaupio-crozier@kapalua.com](mailto:pkaniaupio-crozier@kapalua.com)>, <[ayron.m.strauch@hawaii.gov](mailto:ayron.m.strauch@hawaii.gov)>, Elle Cochran <[ellekcochran@gmail.com](mailto:ellekcochran@gmail.com)>, <[rsilva@aquaengineers.com](mailto:rsilva@aquaengineers.com)>, Lance D. Collins, Ph.D <[lawyer@maui.net](mailto:lawyer@maui.net)>, <[dean.d.uyeno@hawaii.gov](mailto:dean.d.uyeno@hawaii.gov)>, <[rebecca.r.alakai@hawaii.gov](mailto:rebecca.r.alakai@hawaii.gov)>, <[tamara@tamarapaltin.com](mailto:tamara@tamarapaltin.com)>, Skippy Hau <[skippy.hau@hawaii.gov](mailto:skippy.hau@hawaii.gov)>, <[kainoawilson@yahoo.com](mailto:kainoawilson@yahoo.com)>

Aloha Paul,

I reached out to Roy Silva as you recommended. Please see email below. I also reached out to CWRM and we were told that currently MLP does not have an operator for the Honokohau diversion. The stream has been very low for two weeks and this is very concerning considering that a big majority of the stream flow is being dumped into the dry gulch of Mahinahina. I am requesting a meeting to discuss solutions to this issue moving forward. I look forward to your reply.

----- Forwarded message -----

From: **Wili Wood** <[woodwili100@gmail.com](mailto:woodwili100@gmail.com)>  
Date: Sat, Nov 24, 2018 at 9:19 PM  
Subject: Honokohau Stream Flow Issues Nov 2018  
To: <[rsilva@aquaengineers.com](mailto:rsilva@aquaengineers.com)>

Aloha Roy,

As of last week, the water flow in the Honokohau stream has been diminished due to the new stream running around the Honokohau diversion. Naturally this stream changes with each high water and there is now less flow being directed around the diversion and feeding the downstream users.

To correct this issue, we are asking that you implement Taro gate once again. If too much water is leaving the Honokohau water shed it can be regulated at Taro gate to make sure Honokohau stream users are not left with inadequate flow. This is also a good solution because when too much water leaves the valley, it simply overflows into the concrete channelized stream of Honokowai, preventing much-needed aquifer recharge.

Mahalo for taking the time to listen to our concerns and I look forward to your reply.

Sent from my iPhone

## EXHIBIT 02



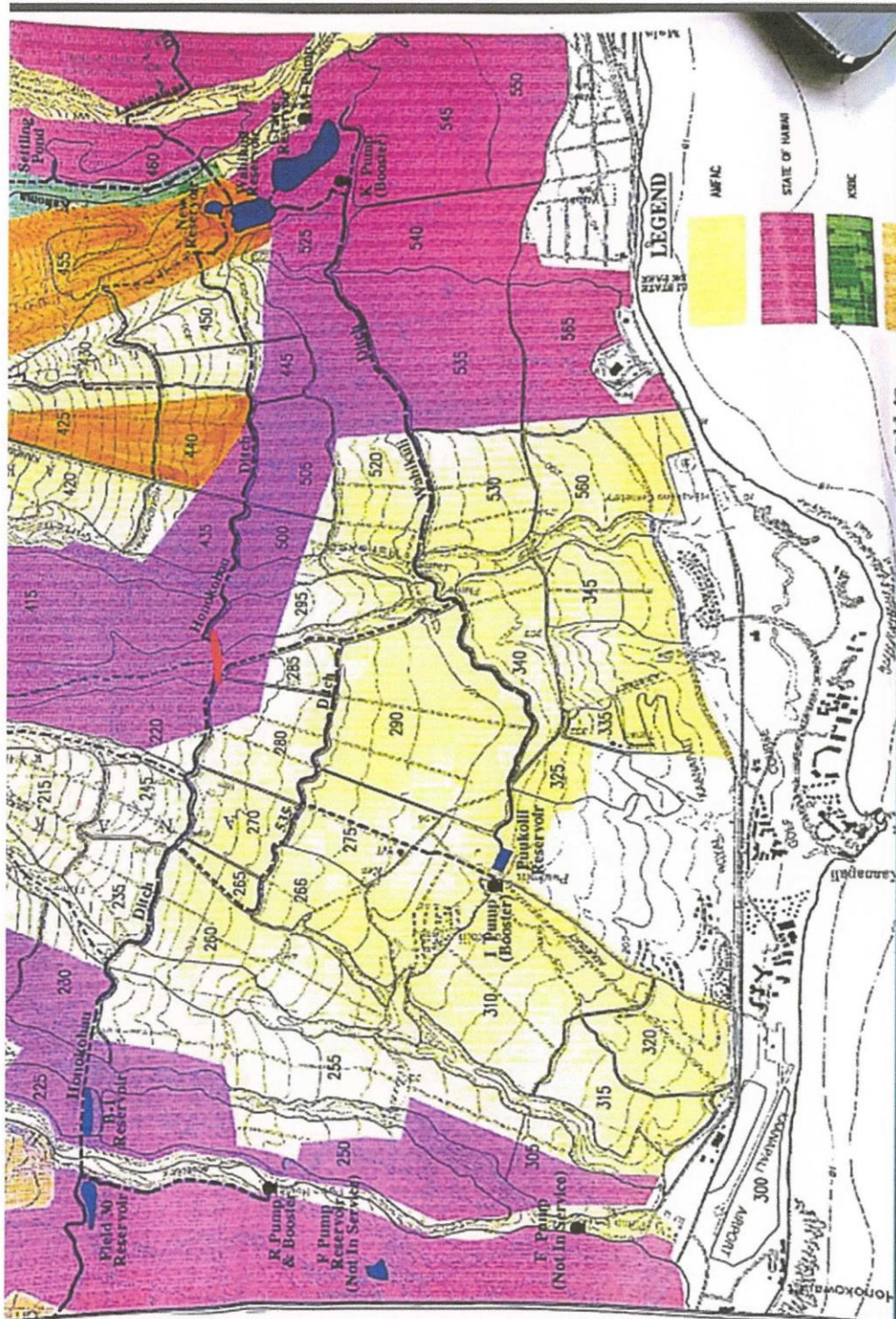


EXHIBIT 03





**State of Hawaii**  
**COMMISSION ON WATER RESOURCE MANAGEMENT**  
**Department of Land and Natural Resources**

**COMPLAINT / DISPUTE RESOLUTION**  
**RESPONSE FORM**

**Instructions:** Please print in ink or type and send completed form with attachments to the Commission on Water Resource Management, P.O. Box 621, Honolulu, Hawaii 96809. For further information and updates to this application form, visit <http://dlnr.hawaii.gov/cwrm/>.

**For Official Use Only:**

Complaint File No: C

*Please answer any applicable questions to the best of your knowledge. This is a standard form and some questions may not pertain to your specific situation.*

1. Name: Tim T. Esaki Date: 10/17/19  
Address: 200 Village Road  
Lahaina, HI 96761  
Daytime Phone No.: (808) 665-5480 Fax No. (808) 665-0641
2. Were you aware of the problem prior to this complaint? ☐ Yes ☒ No
3. Tax Map Key:  
*If you are not the owner, please provide the landowner's information below.*  
Landowner's Name: Mavi Land & Pineapple Company, Inc.  
Landowner's Address: 200 Village Road, Lahaina, HI 96761  
Landowner's Phone No.: (808) 665-5480
4. If this complaint or dispute is related to a water source on your property, was the water source previously declared with the Commission on Water Resource Management?  
☒ Yes ☐ No ☐ Don't know  
If yes, what is the name and tax map key of the source?  
Honokohau Stream  
TMK: 4-1-001-017

CDR-RESP Form (02/28/2007)

**EXHIBIT 6**

5. Attach a sketch or photograph that will give additional details of the situation described by the complainant.

6. Have you had any communication with the complainant(s)?

☐ Yes ☒ No

If yes, list the communications and dates: (Attach copies if written communications were made)

7. Do you know if resolution of this matter has been sought with any other entity? (e.g., government agency, judicial body, or private entity)

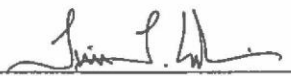
☐ Yes ☒ No ☐ Don't Know

If so, with whom and what was the outcome? Please provide copies of any documentation of this process.

8. Describe what you believe a successful and fair remedy might be:

MLP is in the process of repairing damage to intakes and the ditch from Hurricane Olivia in September 2018 and securing a maintenance contractor for the ditch.

I attest that the information given is accurate and complete, to the best of my knowledge.

  
\_\_\_\_\_  
Signature

10/17/19  
\_\_\_\_\_  
Date